

Government's Exhibit 1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

To Andimo Pappadio
121 Eva Drive, Lido Beach, New York

GREETING:

WE COMMAND YOU that all and singular business and excuses being laid aside, you and each of you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court, to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, in and for the said Southern District of New York, on the 14th day of February 1964, at 10:00 o'clock in the forenoon, to testify and give evidence in regard to an alleged violation of Section 371 of Title 18, United States Code on the part of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

And for failure to attend you will be deemed guilty of contempt of Court and liable to penalties of the law.

DATED: New York, N. Y. February 3, 1964

Government's Exhibit 1

JAMES E. VALECHE
Clerk.

ROBERT M. MORGENTHAU
United States Attorney for the
Southern District of New York.

Note: Report at Room 307. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 413, upon each day on which you attend Court as a witness.

Assistant
WILLIAM M. TENDY

Room 307

Government's Exhibit 2**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK**

In Re**ANDIMO PAPPADIO**

ORDER

Robert M. Morgenthau, United States Attorney for the Southern District of New York, having on the 4th day of August, 1964 made an application for an order instructing Andimo Pappadio, a witness appearing before a Grand Jury for the Southern District of New York then inquiring into alleged violations of the Federal Narcotic Laws, in the Southern District of New York and elsewhere, to testify and produce books, papers and other evidence, pursuant to the provisions of Title 18, U.S.C., Section 1406, and said application having duly been heard before this Court on the 4th day of August, 1964.

Now, upon reading the affidavit of Robert M. Morgenthau, United States Attorney for the Southern District of New York, and having heard Robert M. Morgenthau, United States Attorney for the Southern District of New York by Andrew M. Lawler, Jr., Assistant United States Attorney, Of Counsel, in support of said application, and Andimo Pappadio having appeared in person before this Court, represented by his attorney, and it appearing as follows:

1. Andimo Pappadio did appear on the 14th day of February, on the 24th day of April and on the 8th day of May,

Government's Exhibit 2

1964, before a duly constituted Grand Jury of the Southern District of New York.

2. The said Grand Jury was then inquiring into alleged violations of the Federal Narcotics Laws in the Southern District of New York and elsewhere.

3. Andimo Pappadio refused to answer certain questions relating to matters under inquiry before said Grand Jury, on the ground that his answers might tend to incriminate him.

4. In the judgment of the United States Attorney the testimony of said witness concerning the aforementioned matters is necessary to the public interest.

5. Said application for an order instructing the witness to testify and produce evidence subject to the provisions of Title 18, U.S.C. Section 1406 was made with the approval of the Attorney General of the United States, which approval is annexed to the affidavit in support of the said application; it is

ORDERED, that Andimo Pappadio appear as a witness before the aforementioned Grand Jury on the 4th day of August 1964, at 3 P.M., and it is further

ORDERED, subject to the provisions of Title 18, U.S.C. Section 1406, that the said Andimo Pappadio be and is hereby instructed to answer the questions propounded to him before the Grand Jury which were read into the record before me on August 4, 1964 and to testify and produce books, papers and other evidence with respect to the matters under inquiry, and it is further

Government's Exhibit 2

ORDERED, that the papers herein shall be sealed subject to the further order of the United States District Court for the Southern District of New York, or any judge thereof.

Dated: New York, N. Y.
August 4, 1964

LLOYD F. MACMAHON
U.S.D.J.

Government's Exhibit 3**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK****AFFIDAVIT**

In Re**ANDIMO PAPPADIO**

STATE OF NEW YORK
COUNTY OF NEW YORK
SOUTHERN DISTRICT OF NEW YORK

} ss.:

ROBERT M. MORGENTHAU, being duly sworn deposes and states:

That he is the United States Attorney for the Southern District of New York and submits this affidavit in support of an application to have the Court instruct Andimo Pappadio to testify and produce books, papers or other evidence pursuant to the provisions of Title 18, United States Code, Section 1406.

1. Andimo Pappadio on February 14, 1964 did appear before a duly constituted Grand Jury for the Southern District of New York, which Grand Jury was then and there inquiring into alleged violations of the Federal Narcotic Laws, in the Southern District of New York and elsewhere. On that date Andimo Pappadio refused to answer certain questions on the ground that his answers might tend to incriminate him. A copy of the Grand Jury minutes is attached hereto.

Government's Exhibit 3

2. On April 24, 1964, Andimo Pappadio appeared before the same Grand Jury, and again refused to answer certain questions which were put to him concerning violations of Title 21, U.S.C. Sections 173 and 174. Andimo Pappadio refused to answer these questions on the ground that his answers might tend to incriminate him. A copy of the Grand Jury minutes is attached hereto.

3. On May 8, 1964, Andimo Pappadio again appeared before the same Grand Jury and again refused to answer questions asked of him concerning violations of Title 21, U.S.C. Sections 173 and 174. Pappadio refused to answer on the ground that his answers might tend to incriminate him. A copy of those Grand Jury minutes is also attached hereto.

4. In my judgment as the United States Attorney for the Southern District of New York, the testimony of Andimo Pappadio is necessary and material to the investigation now being conducted by the Grand Jury with respect to the alleged narcotic violations. It is further my judgment that the testimony of Andimo Pappadio concerning the matters under inquiry and his responses to the above questions are necessary to the public interest of the United States.

5. This application is made in good faith and with the approval of Robert F. Kennedy, Attorney General of the United States. A letter from Mr. Kennedy, dated July 24, 1964 expressing such approval, is attached hereto and made a part hereof.

Government's Exhibit 3

6. Because the questions herein cover facts about persons not presently before the Court and because the nature and content of the proceedings before this Grand Jury should be kept confidential, subject to the objection of any person aggrieved thereby, it is respectfully requested that this application be sealed subject to further order of the Court or any Judge thereof.

WHEREFORE, the deponent respectfully requests the Court to order Andimo Pappadio to answer the foregoing questions or any other that may be put to him and to testify and produce evidence relating to the matters under inquiry pursuant to the provisions of Title 18, United States Code, Section 1406.

ROBERT M. MORGENTHAU
United States Attorney

Sworn to before me this
31 day of July, 1964.

JACK W. BALLEEN
Notary Public, State of New York
No. 41-48400, Queens County
Term Expires March 30, 1966

Government's Exhibit 3

[LETTER ANNEXED TO FOREGOING AFFIDAVIT]

OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D. C.

July 24 1964

Mr. Robert M. Morgenthau
United States Attorney
New York, New York

Dear Mr. Morgenthau:

It is my understanding that you are presently conducting an investigation into the alleged involvement of associates of Thomas Luchese in violations relating to narcotics as set forth in Title 18, Section 1406, United States Code. It is further my understanding that Andimo Pappadio has information which would be necessary to the successful completion of that investigation; that it is your intention to recall him to testify before a grand jury inquiring into this matter; that Pappadio is expected to refuse to testify on the ground of the privilege against self-incrimination afforded him by the Fifth Amendment to the United States Constitution.

You have advised me that it is your judgment that the testimony of Andimo Pappadio is necessary to the public interest. With that judgment I am in accord. Should this witness claim said privilege against self-incrimination, therefore, you are authorized to make application to the United States District Court for the Southern District of New York for an order instructing the witness to testify and produce evidence pursuant to the provisions of Title 18, United States Code, Section 1406.

Sincerely,

R. F. KENNEDY
Attorney General

Government's Exhibit 4

February 14, 1964

Sep. Spl. Re: John Doe

Foll SA Mr. Tendy (and Mr. Lawler)

Andino T. Pappadio

ANDINO T. PAPPADIO, called as a witness, and having been duly sworn by the Foreman of the Grand Jury, testified as follows:

By Mr. Tendy:

Q. Sit down and face the jury, please. Would you state your name for the Grand Jury, please. A. Andino Pappadio.

Q. Mr. Pappadio, will you turn around and face the Grand Jury. If you like, you can smoke. A. Thank you.

Q. Would you spell both names. A. A-n-d-i-n-o P-a-p-p-a-d-i-o.

Q. Do you have a middle name or middle initial? A. T.

Q. What does the T stand for? A. Tom.

Q. Mr. Pappadio, where do you live? A. I refuse to answer on the grounds it may tend to incriminate me.

Q. When did you get back from Florida, yesterday or the day before? A. I refuse to answer on the grounds it may tend to incriminate me.

Q. Incidentally, before you came in here this morning you spoke with your attorney? A. Yes, sir.

Q. Would you give us his name, please. A. Lauritano.

Q. L-a-u-r-i-t-a-n-o. His first name? A. Amedeo.

Q. Do you know his business address, his office address? A. 45 Seventh Avenue.

Government's Exhibit 4

Q. Do you happen to know his telephone number? A. No. I don't remember.

Q. O.K. Did you consult with your attorney this morning before you came to this Grand Jury room, and if you did—

A. Yes.

Q. —and if you did, did he advise you of your constitutional rights? A. Yes.

Q. There is no need for me to go into that then, I assume. A. That's right.

Q. O.K. Now, I will inform you that either yesterday or the day before, I think it was the day before yesterday, your attorney came to my office and told me that you had gone to Florida and requested an adjournment of your appearance here today. Now, in view of that information, I ask you again, have you gone to Florida in the last few days? A. I refuse to answer on the grounds that it may tend to incriminate me.

Q. I don't think you got that tan up here in New York this time of the year. Mr. Pappadio are you employed? A. I refuse to answer on the grounds it may tend to incriminate me.

Q. Are you a citizen of the United States? A. Yes, sir.

Q. Are you a naturalized citizen or were you born here? A. I was born here.

Q. How old are you? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. What connection, if any, do you have with Temple Fashions? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. How about the Star Button Company? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. Did you file an income tax return for 1962? A. I refuse to answer on the grounds it may intend to incriminate myself.

Government's Exhibit 4

Q. What do you know about Sherwood Fashions, Inc.? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. Isn't it a fact that Sherwood Fashions is operated or owned by a person named Thomas Luccese? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. Is it your testimony that Thomas Luccese does not operate that company? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. What is your connection, if any, with Anna Lynn, L-y-n-n, Sportwear Corporation, Inc.? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. How well do you know a person named Harry Weinberg? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. How long have you known John Ormento? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. How long have you known Salvatore Santorro? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. Aren't you also known, at least with your friends, by the name, Tommy Pats? A. I refuse to answer on the grounds it may intend to incriminate me.

Q. Now, Mr. Pappadio, I am going to say something to you, then I will ask you a question. I want you to listen. Don't answer the question until you have a chance to go out and talk to your lawyer. There are certain areas that you can be questioned on and if you refuse to answer questions in those areas the Government can grant you immunity from prosecution, so that your answer cannot incriminate you. That goes for either state or federal court, any court in the United States. Do you understand what I have said? A. I didn't understand.

Government's Exhibit 4

Q. I will go through it again. There are certain areas that I can question you about and if you refuse to answer my questions the Government can grant you immunity from prosecution. For example, if you refuse to answer because you are afraid to answer because your answer might incriminate you, the Government can grant you immunity from prosecution. Now, if you are granted such immunity and if you still refuse to answer questions, you can be held in contempt of court and you can go to jail. You understand that? I am advising you of this. You understand what I have said? A. Yes, I understand.

Q. All right. Now, my question, before you answer it I want you to talk to your attorney. If you are granted such immunity will you still refuse to answer questions? Do you understand the question? A. When I'm granted the immunity I will decide if I should answer or not.

Q. O.K.

Mr. Tendy: Mr. Foreman, would you direct the witness to return on March 6, at 10:30 in the morning.

Foreman: You are directed to return here Friday, March 6, at 10:30 a.m.

Witness: Thank you.

Mr. Tendy: You are now excused.

Witness: Thank you.

(Witness leaves room.)

Government's Exhibit 5

April 24, 1964.

Sept. Spec. Re: John Doe.

Mr. Tendy; Mr. Lawler.

Witness: Andimo Thomas Pappadio

ANDIMO THOMAS PAPPADIO, having been duly sworn by the Foreman, testified as follows:

By Mr. Tendy:

Q. Your name is Andimo Pappadio, is that correct? A. Yes, sir.

Q. And is that spelled A-n-d-i-m-o—first name? A. P-a-p-p-a-d-i-o.

Q. Middle initial is "T", I think,—is that correct? A. Yes, sir.

Q. And the "T" stands for Thomas, is that correct? A. Yes, sir.

Q. Now, you're represented by an attorney, Mr. Pappadio? A. Yes, sir.

Q. What's his name? A. Lauritano.

Q. What's his first name, again? A. Amadeo Lauritano.

Q. Amadeo, I think it is? A. That's Amadeo. (spells)

Q. What's his office address? Do you know, offhand? A. 450 7th Avenue.

Q. Do you know what his office telephone number is? A. No.

Q. Did you consult with Mr. Lauritano before you came in here this morning? A. I don't get it. Do you mean today, yesterday, two weeks ago, five weeks ago—?

Government's Exhibit 5

Q. Let me rephrase it: did you consult with Mr. Lauritano concerning this Grand Jury proceeding at any time?

A. Yes.

Q. Has he advised you of your constitutional rights?

A. Yes, sir.

Q. Where do you live, Mr. Pappadio? A. 121 Eva Drive, Lido Beach, New York.

Q. Would you turn round and face the Grand Jury, please? Is that a private home, sir? A. Yes, sir.

Q. How long have you been living there? A. I refuse to answer.

Q. Do you own the home? A. I refuse to answer.

Q. Why? A. On the grounds that it may intend to incriminate me.

Q. What do you do for a living, Mr. Pappadio? A. I refuse to answer on the grounds that the answer to your questions may tend to incriminate me, in violation of the Fifth Amendment. I also refuse to answer because it violates my rights under the First Amendment.

Q. Mr. Pappadio,—sir, so that you'll have a better appreciation of the purpose of this Grand Jury proceeding, I want to advise you that there's been testimony before a Senate committee, and statements have been made to federal law enforcement agencies that a person named Thomas Lucchese is at the head of a group of people that are engaged in a number of illegal activities. It's been alleged that one of these illegal activities is the illicit narcotics traffic. It's also been alleged, sir, that you are a member of this particular group. Now, what we're attempting to do is find out whether or not these allegations are true or false. A. I refuse to answer on the same grounds, that I just repeated before.

Government's Exhibit 5

Q. Do you know Thomas Lucchese? A. I refuse to answer on the same principal.

Q. Did you ever hear of him? A. I refuse to answer on the same grounds.

Q. What do you do for a living, Mr. Pappadio? A. I refuse to answer on the grounds that it may tend to incriminate me.

Q. Do you have any legitimate employment? A. I refuse to answer on the grounds it may tend to incriminate me.

Q. Isn't it a fact that you and Lucchese are in business? A. I refuse to answer on the grounds that it may tend to incriminate me.

Q. Do you know Lucchese's brother, Joseph Lucchese? A. Refuse to answer.

Q. Do you know a person named John Ormento? A. I refuse to answer.

Q. Do you know a person named Salvatore Santoro? A. I refuse to answer on the ground that it may tend to incriminate me.

Q. Do you know a person named James Plumeri? A. I refuse to answer.

Q. All of these people, incidentally, are alleged to be members of this so-called group. Is this true? A. I refuse to answer.

Q. Are you married? A. I refuse to answer.

Q. Do you have any children? A. I refuse to answer.

Q. Do you know of anybody who's engaged in the illicit narcotics traffic? A. I refuse to answer.

Q. Are you in it? A. I refuse to answer.

Q. If you did know of anybody who was engaged in that traffic, would you report it to the proper law enforcement agency? A. I refuse to answer, Mr. Tendy.

Government's Exhibit 5

Q. When you refuse to tell us whether or not you're engaged in the illicit narcotics traffic, are you suggesting to us that you are in fact in it? A. I refuse to answer, Mr. Tendy.

Q. Have you ever been in the illicit narcotics traffic? A. I refuse to answer, Mr. Tendy.

Q. If you have a source of income, Mr. Pappadio, is it derived from any legitimate business? A. I refuse to answer, Mr. Tendy.

Q. How well do you know Salvatore Lo Proto? A. I refuse to answer, Mr. Tendy.

Q. Is there any question that I could put to you this morning that you would answer? A. I refuse to answer.

Mr. Tendy: Mr. Foreman, May 8th?

Foreman: You're directed to return May 8th, at ten o'clock, in this room.

Witness: Thank you.

(Witness leaves room.)

Government's Exhibit 6

May 8, 1964

Sep. Spl. Re: John Doe

(fr. SA.) Mr. Tendy (Mr. Lawler)

Andimo Pappadio

ANDIMO PAPPADIO, called as a witness and having been duly sworn by the Foreman of the Grand Jury, testified as follows:

Mr. Tendy: This is Andimo Pappadio (spells).

Q. Mr. Pappadio, I want to continue the questioning that we got involved in last Tuesday before the Grand Jury. At the narcotics trial of Vito Genovese there was testimony that you attended a meeting at the home of Rocco Masse and Westmore Priete (phonetic) in the Bronx. Did you attend this meeting? A. I refuse to answer on the grounds that it may tend to incriminate me on the Fifth Amendment and on the First Amendment.

Q. Who did you go to the meeting with? A. I refuse to answer on the grounds it may intend to incriminate me on the Fifth Amendment and First Amendment.

Q. Who asked you to attend? A. I would like to give the same answer I gave just now.

Q. Who was present at the meeting? A. I refuse to answer on the same grounds.

Q. What was discussed? A. I refuse to answer on the same grounds, the Fifth and the First.

Q. Isn't it a fact that the distribution of narcotics in the New York area was discussed to some extent? A. I refuse to answer on the grounds of the Fifth and the First.

Government's Exhibit 6

Q. Who called the meeting? A. I refuse to answer on the grounds of the Fifth and the First.

Q. What part did you take in the discussion? A. I refuse to answer on the Fifth and the First.

Q. Who played the major part in this discussion? A. I refuse to answer on the same grounds.

Q. What orders were made at this meeting concerning narcotics? A. I refuse to answer on the same grounds.

Q. What discussion was there about the sources of supply or future distribution or narcotics? A. I refuse to answer on the same grounds.

Q. Who was putting up the money to furnish the supply of narcotics? A. I refuse to answer on the same grounds.

Q. How was the expense to be applied among the members? A. I refuse to answer on the same grounds.

Q. A person named Rocco Mazzie was indicted along with Genovese for the sale and distribution of narcotics. How long have you know Mazzie? A. I refuse to answer on the same grounds.

Q. When was the first time you met him? A. I refuse to answer on the same grounds.

Q. I told you once before, it has been alleged that you are a member of a group of people which is headed up by Thomas Lucchese. It has been alleged that this group traffics in narcotics illegally. If this is true, how does this group bring narcotics into the country? A. I refuse to answer on the Fifth and the First.

Q. Have you taken any trips to Europe or any place else outside of the United States in the past ten years? A. I refuse to answer on the Fifth and the First.

Q. Did you meet anybody on these trips? A. I refuse to answer on the Fifth and the First.

Government's Exhibit 6

Q. Did you have any dealings with anyone in these trips and, if so, what were they? A. I refuse to answer on the Fifth and the First.

Q. Did you arrange to have anybody bring any narcotics into the United States on any of these trips? A. I refuse to answer on the Fifth and the First.

Q. Did you ever have any conversations with Thomas Lucchese concerning narcotics? A. I refuse to answer on the Fifth and the First.

Q. How well have you know Salvatore Lo Proto—how well do you know him?—I should say. A. I refuse to answer on the Fifth Amendment and the First Amendment.

Q. Where is he now? A. I refuse to answer on the Fifth Amendment and the First Amendment.

Q. Do you know where he is now, Mr. Pappadio? A. I refuse to answer on the Fifth Amendment and the First Amendment.

Q. Have you ever been in any narcotics traffic with him? A. I refuse to answer on the Fifth and the First.

Q. By the way, who first introduced you to Rocco Mazzie? A. I refuse to answer on the Fifth and the First Amendments.

Q. Will you tell us the circumstances of your first meeting with him. A. I refuse to answer on the Fifth and the First Amendments.

Q. It has been alleged that you know John Ormento. How long have you know him? A. I refuse to answer on the Fifth and the First Amendments.

Q. There is also testimony to the effect that he was present at the meeting in Mazzie's house. Is this true? A. I refuse to answer on the Fifth and the First Amendments.

Q. Ormento has been convicted of violating the Federal

Government's Exhibit 6

narcotics laws. Did you ever have any dealings with him in narcotics? A. I refuse to answer on the First and the Fifth Amendments.

Q. Did you ever have any discussion with John Ormento about narcotics? A. I refuse to answer on the Fifth and the First Amendments.

Q. When did you have this discussion and what was said? A. I refuse to answer on the Fifth and the First Amendments.

Q. Who did Ormento deal with in narcotics? A. I refuse to answer on the Fifth and the First Amendments.

Q. In the 1930's, Pappadio, you pleaded guilty to violating the Federal narcotics laws. At a subsequent date you stated that you plead guilty because your lawyer advised you; that you were innocent. You were saying you gave somebody a package, you didn't really know what you were doing. Now, who did you get the package from? A. I refuse to answer on the Fifth and the First Amendments.

Q. I realize that you were a young man in those days. It's quite possible you didn't know that you were doing it at all. Subsequently, as a matter of fact, so as to keep this thing in perspective, you did receive a presidential pardon. Isn't that a fact? A. I refuse to answer on the grounds of the Fifth and the First.

Q. This is a matter of record, Mr. Pappadio. I want to put the situation in proper perspective before the Grand Jury. This is a matter of record: Did you get a presidential pardon? A. I refuse to answer on the grounds of the Fifth and the First.

Q. Well, if you are innocent, as you said, Mr. Pappadio, then you should have no objection to telling us exactly what happened on that occasion. A. I refuse to answer on the same grounds of the Fifth and the First Amendments.

Government's Exhibit 6

Q. Are you saying, in substance, that the presidential pardon which you received was obtained fraudulently? A. I refuse to answer on the grounds of the Fifth and the First Amendments.

Mr. Tandy: Mr. Foreman, next Friday, please.

Foreman: You are excused in order to reappear here next Friday, May 15, at 10:00 a.m.

Witness: Thank you.

(Witness leaves room.)

Government's Exhibit 7

August 4, 1964

Re: Andimo Pappadio

Sept. Spec. Messrs. Lawler, McEvoy

Grand Jury in Court Session
before Judge MacMahon, USDJ

Appearances:

ANDREW M. LAWLER, JR.

Assistant United States Attorney

ANDREW T. McEVoy, JR.

Assistant United States Attorney

ANDIMO PAPPADIO

Witness

Grand Jury Reporter:
E. J. Cordes

Mr. Lawler: This is an application to grant the witness immunity. I notice not only is the witness, Pappadio, here, but also his attorney is still present, Mr. Lauritano.

Judge MacMahon: Well, both the marshal and his attorney should leave the room. The witness will remain. Let the record reflect no one is here except the witness, the Grand Jury, the Court and the Assistant United States Attorney.

Mr. Lawler: Your Honor, this is an application by the Government, under the provisions of Title 18, Section 1406, to grant the witness, Andimo Pappadio, immunity. At this time I'd hand up to the Court an affidavit of Robert M. Morgenthau, United States Attorney, which states that a Grand Jury investigation is being conducted, that this

Government's Exhibit 7

Grand Jury is investigating violations of the Narcotics Act, that in his opinion the testimony of Andimo Pappadio is essential to the public interest and that he requests that Andimo Pappadio be ordered by the Court to answer certain questions. Attached thereto is a letter of the Attorney General, Robert Kennedy, stating his approval of this application. Also attached thereto is transcript of three previous appearances by the witness, Andimo Pappadio, before this Grand Jury. Those appearances were on February 14, 1964; April 24, 1964; and May 8, 1964. On each of these occasions, with the exception of certain limited questions concerning his residence, Andimo Pappadio refused to answer any questions on the grounds that his answers might tend to incriminate him. The questions which the Government would request Your Honor order the witness to answer are essentially the same questions which were previously asked. If Your Honor cares for me to go into the specific questions after you've read the affidavit, I will.

Judge MacMahon: Do you have the questions?

Mr. Lawler: I have the questions checked off. Would you like me to read them into the record?

Judge MacMahon: Read them into the record.

Mr. Lawler: Would Your Honor care to follow the February 14 appearance which these questions are taken from:

"Mr. Pappadio, where do you live?"

"When did you get back from Florida, yesterday or the day before?"

"Now, I'll inform you that either yesterday or—"—I withdraw that; I'll not ask the Court to direct on that.

"How old are you?"

"What connection, if any, do you have with Temple Fashions?"

Government's Exhibit 7

"How about the Star Button Company?"

"Did you file an income tax return for 1962?"

"What do you know about Sherwood Fashions, Inc.?"

"Isn't it a fact that Sherwood Fashions is operated or owned by a person named Thomas Lucchese?"

"Is it your testimony that Thomas Lucchese does not operate that company?"

"What is your connection, if any, with Anna Lynn Sportswear Corporation?"

"How well do you know a person named Harry Weinberg?"

"How long have you known John Ormento?"

"How long have you known Salvatore Santorro?"

"Aren't you also known by the name, Tommy Pats?"

"How long have you been living at 121 Eva Drive, Lido Beach?"

"Do you own the home?"

"What do you do for a living, Mr. Pappadio?"

"So that you'll have a better appreciation of the purpose of this Grand Jury proceeding, I want to advise you that there's been testimony before a Senate committee and statements have been made to federal law enforcement agencies that a person named Thomas Lucchese is at the head of a group of people that are engaged in a number of illegal activities. It's been alleged that one of these illegal activities is the illicit narcotics traffic. It's also been alleged, sir, that you are a member of this particular group. Now, what we're attempting to do is find out whether or not these allegations are true or false. Are these allegations true?"

"Do you know Thomas Lucchese?"

"Did you ever hear of him?"

"Do you have any legitimate employment?"

Government's Exhibit 7

"Isn't it a fact that you and Lucchese are in business?"

"Do you know Lucchese's brother, Joseph Lucchese?"

"Do you know a person named John Ormento?"

"Do you know a person named Salvatore Santoro?"

"Do you know a person named James Plumeri?"

"All of these people, incidentally, are alleged to be members of this so-called group. Is this true?"

"Are you married?"

"Do you have any children?"

"Do you know of anybody who's engaged in the illicit narcotics traffic?"

"Are you in it?"

"Have you ever been in the illicit narcotics traffic?"

"If you have a source of income, Mr. Pappadio, is it derived from any legitimate business?"

"How well do you know Salvatore Lo Proto?"

"At the narcotics trial of Vito Genovese there was testimony that you attended a meeting at the home of Rocco Mazzie. Did you attend this meeting?"

"Who did you go to the meeting with?"

"Who asked you to attend?"

"Who was present at the meeting?"

"What was discussed?"

"Isn't it a fact that the distribution of narcotics in the New York area was discussed to some extent?"

"Who called the meeting?"

"What part did you take in the discussion?"

"Who played the major part in this discussion?"

"What orders were made at this meeting concerning narcotics?"

"What discussion was there about the sources of supply or future distribution of narcotics?"

Government's Exhibit 7

"Who was putting up the money to furnish the supply of narcotics?"

"How was the expense to be applied among the members?"

"A person named Rocco Mazzie was indicted along with Genovese for the sale and distribution of narcotics. How long have you known Mazzie?"

"When was the first time you met him?"

"I told you once before—it has been alleged that you are a member of a group of people which is headed by Thomas Lucchese. It has been alleged that this group traffics in narcotics illegally. If this is true, how does this group bring narcotics into the country?"

"Have you taken any trips to Europe or any place else outside of the United States in the past ten years?"

"Did you meet anyone on these trips?"

"Did you have any dealings with anybody on these trips and, if so, who were they?"

"Did you arrange to have anybody bring any narcotics into the United States on any of these trips?"

"Did you ever have any conversations with Thomas Lucchese concerning narcotics?"

"How well do you know Salvatore Lo Proto?"

"Where is he now?"

"Do you know where he is now, Mr. Pappadio?"

"Have you ever been in any narcotics traffic with him?"

"By the way, who first introduced you to Rocco Mazzie?"

"Will you tell us the circumstances of your first meeting with him?"

"It is alleged that you know John Ormento. How long have you known him?"

"There is also testimony to the effect that he was present at the meeting in Mazzie's house. Is this true?"

Government's Exhibit 7

"Ormento has been convicted of violating the federal narcotics law. Did you ever have any dealings with him in narcotics?"

"Did you ever have any discussion with John Ormento about narcotics?"

"When did you have this discussion and what was said?"

"Who did Ormento deal with in narcotics?"

"In the 1930's, Pappadio, you pleaded guilty to violating the federal narcotics laws. At a subsequent date you stated that you pled guilty because your lawyer advised you to do so, but you were innocent. You were saying you gave somebody a package; you didn't really know what you were doing. Now, who did you get that package from?"

"As a matter of fact, you received a presidential pardon. I want to put the situation in its proper perspective before the Grand Jury. This is a matter of record. Did you get a presidential pardon?"

"Well, if you were innocent, as you said, Mr. Pappadio, then you should have no objection to telling us exactly what happened on that occasion."

"Are you saying, in substance, that the presidential pardon which you received was obtained fraudulently?"

Those are the questions which I would ask Your Honor to instruct the witness to answer.

Judge MacMahon: Let the record reflect that the witness, Andimo Pappadio, was present when the Assistant United States Attorney read the questions into the record. Would you come forward, please, Mr. Pappadio. Did you hear the questions as they were read into the record just now?

Witness: Yes sir.

Judge MacMahon: I want you to listen carefully to what I'm about to say. I find that the Grand Jury proceeding presently involved relates to investigations involving vio-

Government's Exhibit 7

lations of the federal narcotic law enumerated in Subsection 2, Title 18, Section 1406, United States Code. Two, the United States Attorney certifies with respect to such matters that it is necessary in the public interest that the testimony of the witness, Andimo Pappadio, be obtained in exchange for the grant of immunity. Three, the Attorney General has approved the application. Four, no constitutional or legal objection exists to the compulsion of the witness's testimony since full and absolute immunity with respect to matters on which he is compelled to testify will be granted. Pursuant to the terms of the statutes for his constitutional right against self-incrimination, in substitution therefor I want to apprise Mr. Pappadio of the following: once you have been granted immunity from prosecution under the Narcotic Control Act of 1956, this, alone, exposes you to a contempt adjudication case and penalties should you refuse to comply with the order of this Court directing you to testify before the Grand Jury. You are further advised that the grant of immunity under the Narcotic Control Act of 1956 extends immunity against state, as well as federal, prosecution for or on account of any transaction, matter or thing concerning which you are compelled to testify or to produce evidence after a grant of immunity has been made by the United States Attorney and that the testimony so compelled cannot be used as evidence in any criminal proceeding against you in either a federal or a state court, except that you will not be exempt from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion here. Therefore, if that's fully understood, I direct you, Andimo Pappadio, to return to the Grand Jury and answer each and every one of the questions which were read into this record in your presence this morning.

Government's Exhibit 7

Mr. Lawler: Your Honor, the Government has prepared a proposed order which we hand up to Your Honor at this time.

Judge MacMahon: When do you wish the witness to return before the Grand Jury?

Mr. Lawler: Your Honor, if I understood your order correctly before, concerning the witness, Shillitani, the Grand Jury will have to be here at three o'clock this afternoon, is that correct?

Judge MacMahon: Yes.

Mr. Lawler: Would you order the witness to be here?

Judge MacMahon: All right. I order you to be here at three o'clock this afternoon before the Grand Jury. What room?

Mr. Lawler: 1401.

Judge MacMahon: In 1401; and you are instructed by the Court to answer each and every question which was read into the record in your presence and in the Court's presence. Copy of the order, and I direct that the affidavit and minutes be sealed till a further order of this Court.

Mr. Lawler: We have an additional application that concerns an additional witness.

Judge MacMahon: All right.

(Mr. Pappadio leaves courtroom).

Government's Exhibit 8

August 4, 1964

Re: John Doe

Sept. Spec. Mr. Lawler

Andimo Pappadio

ANDIMO PAPPADIO, recalled as a witness, having been duly sworn by the Foreman, testified as follows:

By Mr. Lawler:

Q. Would you state your name, please. A. Andimo Pappadio.

Q. Mr. Pappadio, you were present this morning during a Grand Jury proceeding when the Government made application to have immunity granted to you and have you ordered to answer certain questions, were you not? You were in court this morning when this took place? A. Was I in court when this took place? Yes.

Q. You are aware of the fact that the Court has granted you full and complete immunity at this time. A. That's what I understand. I don't know what the—the whole law, but—

Q. You were there when the Judge said that. A. He said that, yes.

Q. And you were ordered to—instructed—to answer certain questions. A. Yes.

Q. I'm going to ask you those questions. Mr. Pappadio, where do you live? A. 121 Eva Drive, Lido Beach, New York.

Q. Mr. Pappadio, when did you last get back from Florida? A. I refuse to answer on the grounds that the

Government's Exhibit 8

answer to your question might tend to incriminate me in violation of the Fifth Amendment. I also refuse to answer because it violates my rights under the First Amendment.

Q. Mr. Pappadio, did you read that answer from a card?

A. Yes sir.

Q. Was that card prepared for you by somebody? A. I refuse to answer. On the same grounds.

Q. Did your attorney prepare that for you? A. I refuse to answer on the grounds that the answer to your question may tend to incriminate me in violation of the Fifth Amendment. I also refuse to answer because it violates my rights under the First Amendment.

Q. Mr. Pappadio, how old are you? A. Fifty.

Q. Mr. Pappadio, where were you born? A. New York City.

Q. What connection, if any, do you have with Temple Fashions? A. I refuse to answer on the grounds that the answer to your question might tend to incriminate me in violation of the Fifth Amendment. I also refuse to answer because it violates my rights under the First Amendment.

Q. Mr. Pappadio, would you give your date of birth. A. 2-2-14. February 2nd, 1914.

Q. Mr. Pappadio, what do you know about the Star Button Company? A. I refuse to answer on the grounds that the answer to your question might tend to incriminate me in violation of the Fifth Amendment. I also refuse to answer because it violates my rights under the First Amendment.

Q. Mr. Pappadio, if you'r going to refuse to answer on the same grounds, you can merely say, "On the same grounds." You can read it each time, but I think it suffices if it's going to be the same grounds. Did you file an income tax return for 1962? A. I refuse to answer—the same grounds.

Government's Exhibit 8

Q. What do you know about Sherwood Fashions, Inc.?
A. I refuse to answer on the same grounds, the same answer before.

Q. Isn't it a fact that Sherwood Fashions is operated or owned by a person named Thomas Lucchese? A. I refuse to answer—same grounds.

Q. Is it your testimony that Thomas Lucchese does not operate that company? A. I refuse to answer on the same grounds.

Q. What is your connection, if any, with Anna Lynn Sportswear Corporation, Inc.? A. I refuse to answer on the same grounds.

Q. How well do you know a person named Harry Weinberg? A. I refuse to answer on the same grounds.

Q. How long have you known John Ormento? A. I refuse to answer on the same grounds.

Q. How long have you known Salvatore Santoro? A. I refuse to answer on the same grounds.

Q. Aren't you also known, at least with your friends, by the name, Tommy Pats? A. I refuse to answer on the same grounds.

Q. How long have you been living at 121 Eva Drive, Lido Beach? A. I refuse to answer on the same grounds.

Q. Do you own the home? A. I refuse to answer on the same grounds.

Q. What do you do for a living, Mr. Pappadio? A. I refuse to answer on the same grounds.

Q. Mr. Pappadio, so that you'll have a better appreciation of the purpose of this Grand Jury proceeding, I want to advise you that there's been testimony before a Senate committee, and statements have been made to federal law enforcement agencies, that a person named Thomas Lucchese is at the head of a group of people that are engaged in a number of illegal activities. It's been alleged that one

Government's Exhibit 8

of these illegal activities is the illicit narcotics traffic. A. I refuse to answer.

Q. I've not asked you a question. It's also been alleged that you are a member of this particular group. What we're trying to do is find out whether these allegations are true or false. Are they true or false? A. I refuse to answer on the same grounds, the Fifth and the First.

Q. Do you know Thomas Lucchese? A. I refuse to answer on the same grounds, the Fifth Amendment and the First Amendment.

Q. Did you ever hear of him? A. I refuse to answer on the same grounds.

Q. Do you have any legitimate employment? A. I refuse to answer on the same grounds.

Q. Isn't it a fact that you and Lucchese are in business? A. I refuse to answer on the same grounds.

Q. Do you know Lucchese's brother, Joseph Lucchese? A. I refuse to answer on the same grounds.

Q. Do you know a person named John Ormento? A. I refuse to answer on the same grounds, the Fifth and the First.

Q. Do you know a person named Salvatore Santoro? A. I refuse to answer under the Fifth and First Amendments.

Q. Do you know a person named James Plumeri? A. I refuse to answer under the Fifth and First Amendments.

Q. All of these people, incidentally, are alleged to be members of this so-called group. Is this true? A.--

Q. Did you hear the question? I'll read it again. All of these people, incidentally, are alleged to be members of this so-called group. Is this true. A. I refuse to answer on the same grounds.

Q. Are you married? A. Yes, sir.

Q. Do you have any children? A. Yes sir.

Q. How many? A. One.

Government's Exhibit 8

Q. How old is that child? A. I refuse to answer on the same grounds.

Q. Do you know of anybody who is engaged in the illicit narcotics traffic? A. I refuse to answer on the same grounds.

Q. Are you in it? A. I refuse to answer on the same grounds.

Q. If you did know of anybody who was engaged in that traffic, would you report it to the proper law enforcement agency? A. I refuse to answer on the same grounds.

Q. When you refuse to tell us whether or not you're engaged in the illicit narcotics traffic, are you suggesting to us that you are, in fact, in it? A. I refuse to answer on the same grounds.

Q. Have you ever been in the illicit narcotics traffic? A. I refuse to answer on the same grounds.

Q. If you have a source of income, Mr. Pappadio, is it derived from any legitimate business? A. I refuse to answer on the same grounds.

Q. How well do you know Salvatore La Proto? A. I refuse to answer on the Fifth and First.

Q. Mr. Pappadio, at the narcotics trial of Vito Genovese there was testimony that you attended a meeting at the home of Rocco Mazzie. Did you attend this meeting? A. I refuse to answer on the same grounds, Fifth and First.

Q. Who asked you to attend? A. I refuse to answer under the Fifth and the First.

Q. Who was present at the meeting? A. I refuse to answer under the Fifth and the First.

Q. What was discussed? A. I refuse to answer under the Fifth and the First.

Q. Isn't it a fact that distribution of narcotics in the New York area was discussed to some extent? A. I refuse to answer under the Fifth and the First.

Government's Exhibit 8

Q. Who called the meeting? A. I refuse to answer on the same grounds.

Q. What part did you take in the discussion? A. I refuse to answer on the same grounds.

Q. Who played the major part in this discussion? A. I refuse to answer on the same grounds.

Q. What orders were made at this meeting concerning narcotics? A. I refuse to answer on the same grounds.

Q. What discussion was there about the sources of supply or future distribution of narcotics? A. I refuse to answer on the same grounds.

Q. Who was putting up the money to furnish the supply of narcotics? A. I refuse to answer on the same grounds, Fifth and First Amendments.

Q. How was the expense to be applied among the members? A. I refuse to answer, Fifth and First.

Q. A person named Rocco Muzzie was indicted along with Genovese for the sale and distribution of narcotics. How long have you known Mazzie? A. I refuse to answer on the same grounds.

Q. When was the first time you met him? A. I refuse to answer, Fifth and First.

Q. I told you once before, it has been alleged that you are a member of a group of people which is headed by Thomas Lucchese. It has been alleged that this group traffics narcotics illegally. If this is true, how does this group bring narcotics into the country? A. I refuse to answer under the Fifth and the First.

Q. Have you taken any trips to Europe or any place else outside the United States in the past ten years? A. I refuse to answer under the Fifth and the First.

Q. Did you meet anybody on these trips? A. I refuse to answer on the Fifth and First.

Government's Exhibit 8

Q. Did you have any dealings with anybody on these trips and, if so, who were they? A. I refuse to answer on the the Fifth and First.

Q. Did you arrange to have anybody bring any narcotics into the United States on any of these trips? A. I refuse to answer on the Fifth and First.

Q. Did you ever have any conversations with Thomas Lucchese concerning narcotics? A. I refuse to answer under the Fifth and First.

Q. How well have you known Salvatore Lo Proto? A. I refuse to answer under the Fifth and First.

Q. Where is he now? A. I refuse to answer on the Fifth and First.

Q. Do you know where he is now, Mr. Pappadio? A. I refuse to answer under the Fifth and the First.

Q. Have you ever been in any narcotics traffic with him? A. I refuse to answer on the Fifth and First.

Q. By the way, who first introduced you to Rocco Mazzie? A. I refuse to answer on the same grounds.

Q. Will you tell us the circumstances of your first meeting with him. A. I refuse to answer, Fifth and First.

Q. It has been alleged that you know John Ormento. How long have you known him? A. I refuse to answer, Fifth and First.

Q. There is also testimony to the effect that he was present at the meeting at Mazzie's house. Is this true? A. I refuse to answer under the Fifth and the First.

Q. Ormento has been convicted of violating the federal narcotics laws. Did you ever have any dealings with him in narcotics? A. I refuse to answer under the Fifth and First.

Q. Did you ever have any discussion with John Ormento about narcotics? A. I refuse to answer, Fifth and First.

Government's Exhibit 8

Q. When did you have this discussion and what was said?

A. I refuse to answer under the Fifth and First.

Q. Who did Ormento deal with in narcotics? A. I refuse to answer under the Fifth and First.

Q. In the 1930's Pappadio, you pleaded guilty to violating the federal narcotics law. At a subsequent date, you stated that you pleaded guilty because your lawyer advised you; that you were innocent; you were saying you gave somebody a package; you didn't really know what you were doing. Now, who did you get the package from? A. I refuse to answer under the Fifth and First.

Q. Now, you did receive a presidential pardon on that; that's a matter of record. I want to put the situation in proper perspective before the Grand Jury: did you get a presidential pardon? A. I refuse to answer under the Fifth and First.

Q. Well, if you are innocent, as you said, Mr. Pappadio, then you should have no objection to telling us exactly what happened on that occasion. A. I refuse to answer under the Fifth and First.

Q. Are you saying in substance that the presidential pardon which you received was obtained fraudulently? A. I refuse to answer under the Fifth and First.

Q. Mr. Pappadio, are you represented by an attorney? A. Not today.

Q. Was not Mr. Lauritano present with you earlier this morning? A. He was present. If I know what—what I was facing—and he spoke to me Friday, and I went down his office yesterday, and told me that somebody from the United States Attorney's office was in contact with him.

Q. Well, he has represented you on previous appearances before the Grand Jury? A. Up until—I don't know—some time in May or June, whenever—last time I was here.

Government's Exhibit 8

Q. You appeared in February, April and May. On each of those occasions Mr. Lauritano was with you? A. That's why I made up my mind I didn't need no more attorney. He was told to go home—I would come up here—told to go home.

Q. Mr. Lauritano was with you here this morning? A. He told me, "Let me come down with you." I said, "Let me get another attorney", I said, "what's the sense your coming down?" So we continued to talk, and wound up, I said, "All right; come on down." When I was faced in front of the judge, that's when I decided I should look around for another lawyer.

Q. Mr. Lauritano is not representing you any more? A. No.

Q. Do you have a particular attorney in mind? A. Well, I've got a few attorneys. I tried to reach Jack Kosman just now. I couldn't get him in the office.

Q. Is Mr. Kosman from Philadelphia? A. Philadelphia.

Q. Mr. Pappadio, I'm going to adjourn your next appearance from this Grand Jury, since you've stated you're going to obtain another attorney. But I'd advise you to consult as soon as possible with that attorney, so that on your next appearance, you're able to answer the question. A. I'll try my utmost.

Mr. Lawler: Mr. Foreman, would you direct the witness to reappear before this Grand Jury on August 19th at ten o'clock in the morning, in Room #1401?

Foreman: You're directed to return August 19th at ten o'clock, in Room #1401.

Witness: Thank you, thank you.

(Witness leaves room.)

Government's Exhibit 9

October 6, 1964

Sept. Spec. Re: John Doe

fol SA Mr. Lawler

Andimo Pappadio

ANDIMO PAPPADIO, called as a witness, and having been duly sworn by the Foreman of the Grand Jury, testified as follows:

By Mr. Lawler:

Q. Would you state your name, please. A. Andimo Pappadio (spelled.)

Q. Mr. Pappadio, if you recall, on August 4, 1964, you appeared in Room 318 of this Courthouse before Judge MacMahon at which time Judge MacMahon ordered you to answer certain questions after having explained to you that you had been granted immunity pursuant to the Narcotics Control Act. Do you remember that? A. I remember that.

Q. At this time, Mr. Pappadio, I intend to ask you those questions that Judge MacMahon instructed you to answer. A. I was called in, I had no attorney. I recall being called in but I don't understand everything you said.

Q. Mr. Pappadio, on your previous appearances before the Grand Jury were you not represented by a Mr. Lauritano? A. I said I was called without an attorney in the front of the court room.

Q. Will you answer the questions. On your previous appearances before the Grand Jury were you represented by Mr. Lauritano? A. I refuse to answer on the ground it may intend to incriminate me under the Fifth and the First.

Government's Exhibit 9

Q. Didn't you state on previous appearances before the Grand Jury that you were represented by Mr. Lauritano?

A. I refuse to answer under the First and Fifth Amendment.

Q. On your appearance on August 4th, was not Mr. Lauritano with you? A. I refuse to answer on the First and Fifth Amendment.

Q. At the time you were instructed to answer these questions and the immunity provisions were explained to you, was not Mr. Lauritano present with you before the court in Room 318? A. He was not.

Q. Was Mr. Lauritano present outside the court room? A. I don't know.

Q. Had you consulted with Mr. Lauritano that morning before coming before the Grand Jury? A. I refuse to answer under the First and Fifth Amendment.

Q. Mr. Pappadio, I intend to ask you the questions which Judge MacMahon instructed you to answer. Mr. Pappadio, where do you live? A. 121 Eva Drive, Lido Beach, New York.

Q. When did you get back from Florida, yesterday or the day before? A. I refuse to answer on the grounds it may intend to incriminate me under the First and Fifth Amendment.

Q. I'll withdraw that question. Mr. Pappadio, how old are you? A. Fifty years old.

Q. What connection, if any, do you have with Temple Fashions? A. I refuse to answer under the First and Fifth Amendment.

Q. Mr. Pappadio, what connection do you have with Star Button Company? A. I refuse to answer under the First and Fifth Amendment.

Q. Did you file an income tax return for 1962? A. I refuse to answer under the First and Fifth Amendment.

Government's Exhibit 9

Q. What do you know about Sherwood Fashions, Incorporated ? A. I refuse to answer under the First and Fifth Amendment.

Q. Isn't it a fact that Sherwood Fashions is operated or owned by a person named Thomas Luchese? A. I refuse to answer under the First and Fifth Amendment.

Q. Is it your testimony that Thomas Luchese does not operate that company? A. I refuse to answer under the First and Fifth Amendment.

Q. What is your connection, if any, with Anna Lynn Sportswear Corporation? A. I refuse to answer under the First and Fifth Amendment.

Q. How well do you know a person named Harry Weinberg? A. I refuse to answer under the First and Fifth Amendment.

Q. How long have you known John Ormento? A. I refuse to answer under the First and Fifth Amendment.

Q. How long have you known Salvatore Santoro? A. I refuse to answer under the First and Fifth Amendment.

Q. Are you also known by the name Tommy Paps? A. I refuse to answer under the First and Fifth Amendment.

Q. How long have you been living at 121 Eva Drive, Lido Beach? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you own the home? A. I refuse to answer under the First and Fifth Amendment.

Q. What do you do for a living? A. I refuse to answer under the First and Fifth Amendment.

Q. So that you will have a better appreciation of the purpose of this Grand Jury proceeding, I want to advise you that there has been testimony before a Senate Committee and statements have been made to Federal law enforcement agencies that a person named Thomas Luchese is at the

Government's Exhibit 9

head of a group of people engaged in a number of illegal activities. It's been alleged that one of these illegal activities is the illicit narcotics traffic.

It has also been alleged that you are a member of this particular group. What we are attempting to do is to find out whether or not these allegations are true or false. Are these allegations true? A. I refuse to answer under the Fifth Amendment.

Q. Do you know Thomas Luchese? A. I refuse to answer under the First and Fifth Amendment.

Q. Did you ever hear of him? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you have any legitimate employment? A. I refuse to answer under the First and Fifth Amendment.

Q. Isn't it a fact that you and Luchese are in business? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you know Luchese's brother Joseph Luchese? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you know a person named John Ormento? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you know a person named Salvatore Santoro? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you know a person named James Plumeri? A. I refuse to answer under the First and Fifth Amendment.

Q. All of these people, incidentally, are alleged to be members of this so-called group. Is this true? A. I refuse to answer under the First and Fifth Amendment.

Q. Are you married? A. I refuse to answer under the First and Fifth Amendment.

Q. Do you have any children? A. I refuse to answer under the First and Fifth Amendment.

Government's Exhibit 9

Q. Do you know of anybody who's engaged in the illicit narcotics traffic? A. I refuse to answer under the First and Fifth Amendment.

Q. Are you in it? A. I refuse to answer under the First and Fifth Amendment.

Q. Have you ever been in the illicit narcotics traffic? A. I refuse to answer under the First and Fifth Amendment.

Q. If you have a source of income, Mr. Pappadio, is it derived from any legitimate business? A. I refuse to answer under the First and Fifth Amendment.

Q. How well do you know Salvatore Lo Proto? A. I refuse to answer under the First and Fifth Amendment.

Q. At the narcotics trial of Vito Genovese there was testimony that you attended a meeting at the home of Rocco Mazzie. Did you attend this meeting? A. I refuse to answer under the First and Fifth Amendment.

Q. Who did you go to this meeting with? A. I refuse to answer under the First and Fifth Amendment.

Q. Who asked you to attend? A. I refuse to answer under the First and Fifth Amendment.

Q. Who was present at the meeting? A. I refuse to answer under the First and Fifth Amendment.

Q. What was discussed? A. I refuse to answer under the First and Fifth Amendment.

Q. Isn't it a fact that the distribution of narcotics in the New York area was discussed to some extent? A. I refuse to answer under the First and Fifth Amendment.

Q. Who called the meeting? A. I refuse to answer under the First and Fifth Amendment.

Q. What part did you take in the discussion? A. I refuse to answer under the First and Fifth Amendment.

Q. Who played the major part in this discussion? A. I refuse to answer under the First and Fifth Amendment.

Government's Exhibit 9

Q. What orders were made at this meeting concerning narcotics? A. I refuse to answer under the First and Fifth Amendment.

Q. What discussion was there about the sources of supply or future distribution of narcotics? A. I refuse to answer under the First and Fifth Amendment.

Q. Who was putting up the money to furnish the supply of narcotics? A. I refuse to answer under the First and Fifth Amendment.

Q. How was the expense to be applied among the members? A. I refuse to answer under the First and Fifth Amendment.

Q. A person named Rocco Mazzie was indicted along with Genovese for the sale and distribution of narcotics. How long have you known Mazzie? A. I refuse to answer under the First and Fifth Amendment.

Q. When was the first time you met him? A. I refuse to answer under the First and Fifth Amendment.

Q. I told you once before it has been alleged that you are a member of a group of people which is headed by Thomas Luchese. It's been alleged that this group traffics in narcotics illegally. If this is true, how does this group bring narcotics into this country? A. I refuse to answer under the First and Fifth Amendment.

Q. Have you taken any trips to Europe or any place outside the United States in the last ten— A. I refuse to—

Q. Will you wait until I finish the question. A. Excuse me.

Q. Go ahead. A. I refuse to answer under the First and Fifth Amendment.

Q. Did you meet anyone on these trips? A. I refuse to answer under the First and Fifth Amendment.

Government's Exhibit 9

Q. Did you have any dealings with anybody on these trips, and if so, who were they? A. I refuse to answer under the First and Fifth Amendment.

Q. Did you arrange to have anybody bring any narcotics into the United States on any of these trips? A. I refuse to answer under the First and Fifth Amendment.

Q. Did you ever have any conversations with Thomas Luchese concerning narcotics? A. I refuse to answer on the grounds of the First and Fifth Amendment.

Q. How well do you know Salvatore Lo Proto? A. I refuse to answer on the grounds it may intend to incriminate me, and the First and Fifth Amendment.

Q. Have you ever been in any narcotics traffic with him? A. I refuse to answer on the grounds it may intend to incriminate me, and First and Fifth.

Q. By the way, who first introduced you to Rocco Mazzie? A. I refuse to answer on the grounds it may intend to incriminate me, First and Fifth.

Q. Will you tell us the circumstances of your first meeting with him? A. I refuse to answer on the grounds it may intend to incriminate me, on the First and Fifth.

Q. It has been alleged that you know John Ormento. How long have you known him? A. I refuse to answer on the grounds it may intend to incriminate me under First and Fifth.

Q. There's also testimony to the effect that he was present at the meeting in Mazzie's house. Is this true? A. I refuse to answer on the grounds it may intend to incriminate me under First and Fifth.

Q. Ormento has been convicted of violating the narcotics laws. A. I refuse—

Q. Did you ever have any dealings with him in narcotics? A. I refuse to answer on the grounds it may incriminate me, First and Fifth.

Government's Exhibit 9

Q. Did you ever have any discussion with John Ormento about narcotics? A. I refuse to answer the whole thing, First and Fifth.

Q. Excuse me; when did you have this discussion and what was said? A. I refuse to answer on the grounds of the First and Fifth Amendment.

Q. Who did Ormento deal with in narcotics? A. I refuse to answer on the grounds it may intend to incriminate me under First and Fifth Amendment.

Q. In the 1930's you pleaded guilty to violating the Federal Narcotics law. On a subsequent date you stated that you pled guilty because your lawyer advised you to do so, but you were innocent. You were saying you gave somebody a package; you really didn't know what you were doing. Who did you get that package from? A. I refuse to answer on the grounds it may intend to incriminate me under the First and Fifth.

Q. As a matter of fact, you received a Presidential pardon. I want to put the situation in its proper perspective before the Grand Jury. This is a matter of record. Did you get a presidential pardon? A. I refuse to answer on the First and Fifth.

Q. If you were innocent as you said, Mr. Pappadio, then you should have no objection to telling us exactly what happened on that occasion. Are you saying in substance that the Presidential pardon which you received was obtained fraudulently? A. I refuse to answer on the grounds of the First and Fifth.

Q. Mr. Pappadio, are you represented by an attorney here this morning? A. Yes, sir.

Q. Will you tell us his name? A. Jack Kossman, Jacob Kossman.

Q. Is Mr. Kossman outside? A. Yes, sir.

Government's Exhibit 9

Q. Have you discussed this case with Mr. Kossman before coming here this morning? A. He's green about the whole thing.

Q. I just asked— A. You give me a copy—well, you just asked me, and you want me to stop and you want me to answer. Let me talk.

Q. Go ahead. A. You give me a copy of that. Let me talk it over with my attorney. Then I'll walk back in here.

Q. Have you discussed— A. You just keep going this way to me, you don't want me to talk.

Q. You can say anything you want. You can also answer my questions. Have you discussed this case with him? A. I told him that I was coming here. I didn't discuss this case. I'm just listening to it with two ears.

Q. Did he advise you of your constitutional rights? A. I refuse to answer on the grounds it may intend to incriminate me under the First and Fifth.

Q. Were you ordered in your appearance on August 4th before this Grand Jury to return on August 19th before this Grand Jury? A. I refuse to answer under the First and Fifth.

Q. You were not here August 19th without an attorney. A. I refuse to answer; it may intend to incriminate me under the First and Fifth.

Mr. Lawler: I have no further questions. Will you step outside, unless you have something you would like to say, go ahead.

The Witness: Just like to have a copy of that.

Mr. Lawler: Copy of what, the questions that you were ordered to answer?

The Witness: That I was ordered to answer.

Mr. Lawler: All right, will you step outside.

Witness leaves room.

Government's Exhibit 10

October 8, 1964

Re: Andimo Pappadio

Sept. Spec. Messrs. Lawler, Tendy

Grand Jury in Court Session
Before Judge Herlands, USDJ

Appearances:

WILLIAM M. TENDY,
Assistant United States Attorney

ANDREW M. LAWLER, JR.,
Assistant United States Attorney

JOHN E. SPRIZZO,
Assistant United States Attorney

ROBERT L. KING,
Assistant United States Attorney

EZRA H. FRIEDMAN,
Assistant United States Attorney

JACOB KOSSMAN,
Attorney for Mr. Pappadio

ANDIMO PAPPADIO,
Witness

Grand Jury Reporter:
E. J. Cordes

Judge Herlands: Do you have the appearances?

Reporter: Yes.

Mr. Lawler: May the record reflect that this is a closed session of the Grand Jury. The only people present are the Grand Jury, the Grand Jury reporter, and the Assistant

Government's Exhibit 10

United States Attorneys, whose names are John Sprizzo, Robert King, Ezra Friedman, and I am Andrew Lawler. Your Honor, the Grand Jury here seeks the assistance of the Court in connection with the matter involving Andimo Pappadio, a witness who has refused to answer questions which the Court had previously instructed him to answer. At this time I think the witness should be in the courtroom, and I might state that we have no objection if his attorney be in the court.

Judge Herlands: Yes, I think the witness and his attorney should come into the courtroom at this point.

(Witness Pappadio and Attorney Kossman enter.)

Judge Herlands: Mr. Pappadio, you may be seated; and, Mr. Kossman, will you give the reporter your full name and office address.

Mr. Kossman: Jacob Kossman (spells), 1325 Spruce Street, Philadelphia 7, Pa.

Judge Herlands: You may be seated, Mr. Kossman. You may proceed.

Mr. Lawler: I might briefly outline the background of this case. The witness, Pappadio, appeared on three occasions before this Grand Jury—on February 14, 1964; April 24, 1964; and May 8, 1964. On each of these occasions he refused to answer questions put to him on the grounds that his answers might tend to incriminate him. On August 4th, 1964, upon the application of the Government, on the affidavit of Mr. Morgenthau and the approval of the Attorney General, application was made pursuant to the provisions of Title 18, Section 1406, to have the witness directed to answer certain questions and to have him granted immunity pursuant to that section. On that occasion the witness was brought before Judge MacMahon. The Government made

Government's Exhibit 10

the application, the Judge found that all the provisions of that statute had been met, and he thereafter instructed the witness to answer certain questions.

(Mr. Tendy enters courtroom)

On two subsequent occasions, the afternoon of August 4th and October 5th of this week, the Witness was again brought before the Grand Jury. On these occasions he was asked the questions he was directed to answer, and he refused to answer these questions on the First and Fifth Amendments. At this time the Grand Jury seeks the assistance of the Court. What we would ask the Court to do is to once more instruct the witness that he has been granted immunity, that he must answer these questions and, if Your Honor so desires, to put these questions once again to the witness.

Judge Herlands: Mr. Kossman, that represents a chronology of the proceedings here. I'd be glad to hear you.

Mr. Kossman: I think the Government has fairly summarized it up to date, but there's this that I'd like to present to the Court at this particular posture. Now, I don't know whether I should do it before Your Honor reads the questions, since I haven't seen the questions that he has been directed and, therefore, I haven't had a chance to consult with him in terms of advice, specifically, but—may I approach?—but more important is this: I'd like to call Your Honor's attention to the fact that Mr. Pappadio is a defendant in a case where he was indicted, a narcotic case, C 156-157. On December 1st, 1958, the Government moved to sever—

Judge Herlands: '58?

Mr. Kossman: 1957. —moved to sever the defendant—Judge Bicks—and the motion was granted. Of course, I have a copy, a certified copy, and the Government knows it.

Government's Exhibit 10

I put it to Your Honor this way, that it creates a situation where defendant is under indictment—and I might say that—and he hasn't been tried—and I might say this, and I don't say it facetiously, that he's prepared to go to trial tomorrow—since 1958. Now, therefore, he's placed in a position where he—of course, I don't know what questions have been asked him, I won't know until Your Honor reads it, but there's this business of placing a defendant in the position of having to answer questions involving a narcotic case where he, himself, is under indictment. Now, it seems that—that it's an unfair proposition to—and I say, "unfair," with—I mean I don't mean anything personally against the Government authorities who are proceeding, but it seems unfair to call a man as a witness before a Grand Jury, when he's actually a defendant, and query him on the same subject matter. Now, apropos of that, there's a case—there's a case—that's why I took the liberty of opening—there's a case, *Piemonte, P-I-E-M-O-N-T-E, vs. United States*, 367 U.S. 556. It was decided June 19, 1961. Now, in that case an individual was serving a sentence for federal narcotic offense, and he was summoned before a Grand Jury and he was asked questions, and he invoked his privilege against self-incrimination, and the majority of the Court didn't feel he could incriminate himself, but there's this difference—and there are three dissents—an indictment had been returned against Piemonte which was dismissed at the time certiorari was granted. Now, I'm reading from the dissent of the case because it differs from our case because here we have a live indictment. In other words, if he was in jail, serving time for narcotics, then for him to claim self-incrimination, he would fall into this particular case or the *Reina* case, but where there's an open indictment,—

Judge Herlands: *R-E-I-N-A*.

Government's Exhibit 10

Mr. Kossman: That's right. Now, to quote from Justice Douglas, with Justice Black dissenting, "When the citizen is formally accused by indictment, he has a constitutional right to stand mute and to refuse to testify. His right not to take the stand in a federal criminal trial transcends his privilege against self-incrimination. No immunity statute, no pressure of Government, no threats of the prosecution can be used to deprive the citizen of this right." And, skipping, "We are advised that after we granted certiorari, the indictment against petitioner was dismissed on motion of the Government for lack of evidence. That seems irrelevant." But, of course, in our particular case, we have an open indictment. Now, I have practically the same situation existed in a case, *United States vs. Testa, T-E-S-T-A*, where he was held for contempt, refusal to answers questions, only it was civil contempt, as the Government takes the position, and they happened to state in the course—because it was no fixed terms to be discharged, and then he was indicted. Now, when that was called to the attention of the authorities—I'll put it to you this way—they dropped the indictment, and so the contempt case—the conviction was sustained; but again I put it to Your Honor and—because normally you would not have a person appearing as a witness before a Grand Jury who is a defendant, and not a defendant seeking to avoid trial, a defendant who is willing to go to trial any time the Government puts it down.

Judge Herlands: All right, I'll leave it to the Government.

Mr. Lawler: What Mr. Kossman says is true about Mr. Pappadio being named in an indictment. He's named in what's commonly called the Genovese case. It goes back to 1958. He was severed; he has not been tried since that time. The Government's position is that the immunity which has

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been granted to the witness would cover any testimony; we would be precluded from ever using any of his testimony in that case. And just directing myself very briefly to the two cases that Mr. Kossman has mentioned, in both of those cases the convictions were sustained by the Supreme Court, and the other case, I believe, is the Third Circuit, and the convictions were affirmed in both those cases. Mr. Kossman has cited the dissent in Piemonte and also his position in *Reine*.

Mr. Kossman: There's a difference, there's no case the Government can cite—I mean the Supreme Court level—where there's an open indictment. Now, if the Government wishes to dismiss the indictment today, then that argument is eliminated; but he's a defendant, and to say that he's granted immunity and it cannot be used against him—I mean, after all, this business of granting someone immunity is only—it's only a defense. In other words, if the Government should proceed on the indictment to try him and they say, "Well, we didn't learn anything as a result of the questioning in this particular case, then we would have to have a trial and we'd have to have a defense and plea. Now, he shouldn't be put in that position. The least that should be done is that the indictment should be dropped, or he should not be called as a witness. It seems that they shouldn't ride both sides of the horse at the same—in different directions—at the same time.

Mr. Lawler: As far as the Piemonte case is concerned, the contempt which took place while the indictment was still open—that was affirmed by the Supreme Court. As Mr. Douglas said in his dissent, the fact that it was, while the case was on appeal, dropped is of no consequence. Recently in a case, *Murphy* against the Waterfront Commission, decided by the Supreme Court, the Supreme Court has set out

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in stating that the Federal Government would be precluded, if the witness under a grant of immunity before the state, that once a witness testifies under a grant of immunity, the Government would have the burden of coming forward and showing that all of the evidence has an independent source and is not tainted in any way by the testimony given, that proceedings would be afforded the witness.

Mr. Kossman: I'll just finally line up, and thank Your Honor for your patience in listening, this is—Justice Harlan said recently in that case—

Judge Herlands: Which case?

Mr. Kossman: I don't have the citation here, but I can get it. In which he stated—which, of course—that the Grand Jury stands as a shield between—I think he was even citing the quotation in the case he quoted, the Hale or Halley, H-A-L-E or Heinke, H-E-I-N-K-E, in the course of his opinion, which he said the Grand Jury stands as a shield between the Government and the person who is called before or who they're investigating. Now, under these circumstances, we have to appeal to Your Honor, under the circumstances. Here's an individual who is a defendant, he's a witness. The Government states, well, we can—it will be a matter of defense or what not later on. We say we're entitled to an adjudication at this moment, that if they can wait for six years and not proceed to trial—and the Government usually does not wait six years if they have a good case—then it seems at first blush that they may look to try to secure a little extra evidence and put the burden upon us to show that it wasn't secured as a result of these things. I say—either try us or discharge us as a witness.

Judge Herlands: I'm prepared to rule on the point that has been raised. The objection that has just been interposed and argued in behalf of the witness is without merit, in my

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judgment, for the following reason: Section 1406 of United States Code, Title 18, expressly provides that upon the compliance with the procedure outlined in that section, which apparently has occurred here, the witness shall not be excused from testifying or from producing books, papers or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. The section further provides that no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify and produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding against him in any court, except with regard to prosecution for perjury committed or contempt committed while giving the particular testimony or producing evidence under the statutory compulsion described in Section 1406. This statutory scheme for compelling evidence and testimony in exchange for immunity is of the broadest character. There are various types of immunity statutes, both federal and state. The various types of statutes have been analyzed on numerous occasions by many courts. The particular statute is of the most comprehensive kind and measures up to all constitutional criteria. The grant of immunity is most comprehensive. It's not limited to future prosecutions. It states explicitly that the immunity, both as to prosecution and as to use of testimony, relates to any criminal proceeding against the defendant in any court; consequently, the testimony which is compelled may not be used against this defendant in any prosecution, whether based on a pending indictment or on an indictment that may hereafter be procured. The Court disagrees with learned counsel for the

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defense when he says that the defendant would be put in the position of having to assert a defense on the suspected or alleged ground that the Government is using, in a future trial of the pending indictment, evidence secured from the witness before this Grand Jury or clues or leads or links derivatively obtained by the Government from such evidence. That's not so, because the Supreme Court, as illustratively demonstrated by the excerpt mentioned by the Assistant United States Attorney, has held that the burden of proof would be upon the Government to demonstrate that it has not used the so-called fruit of a poisoned tree, to use the metaphor frequently indulged in in this area of the law; so that in the unlikely event that this witness should be prosecuted on the pending indictment on the basis of evidence, clues, leads, etc., derived directly or indirectly from this witness's testimony, in that unlikely event the Government would have to show that it's not the beneficiary of the testimony which it seeks to obtain from this defendant; and, as a practical matter, any court in such a situation would look with the utmost scrutiny at the Government's case because the grant of immunity, which replaces a constitutional privilege, would have to be most liberally construed in favor of the defendant, since constitutional rights are liberally construed, and immunity, which becomes equated with that constitutional privilege, would receive undoubtedly the same generous interpretation by the Court. I believe, therefore, that the fears outlined by counsel are theoretical, are without legal substance and do not constitute an excuse for this witness's refusal to answer the questions that are the subject matter of the proceedings outlined by the Assistant United States Attorney. Is there anything else that Mr. Kossman wants to call my attention to before we proceed?

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Mr. Kossman: Well, of course, I mean Your Honor has ruled, and I'm wondering if I could now have a copy of the questions that were asked him so that I could advise the witness properly as to the type of questions that have been asked, so I could present an argument to Your Honor based on the questions that I don't know, that before—

Mr. Lawler: The Government has no objection to turning over the transcript of August 4th before Judge MacMahon, which is the date on which the—

Judge Herlands: The record will show that Mr. Lawler is turning over to defense counsel a copy of the transcript of August 4th, 1964, and that I will now proceed, using that transcript, to ask the witness the same questions and find out whether he's going to answer them.

Mr. Kossman: Well, may it please the Court—as I say, I don't know, in the particular situation now that you wish to ask him, is this to be construed, not as a—he has been ordered in the past. Now, I'm wondering what is the status of this particular hearing? Is it to give me an opportunity to argue relevancy on particular questions?

Mr. Lawler: Your Honor, at this time we will not ask the Court to pass on the question of whether the witness has, in fact, committed a contempt. What we're asking now is the assistance of the Court, in that you would ask him the same questions, as has been done in a number of cases and has been proved in a number of cases.

Judge Herlands: Let me say this, Mr. Kossman—I might, for the record, state that Mr. Kossman is a member of the Philadelphia Bar. He's a member of the Bar of the Court of Appeals for this circuit, and I admitted him on motion this morning *pro hac vice*. The standard procedure in this type of situation, as I understand it, and the procedure that I shall be following, is for me to read these ques-

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tions—meaning the questions that he has refused to answer—to the witness here in my presence. I'm going to read them to him to find out whether he's going to answer them. As I understand it, in the event that the witness refuses to answer these questions and so advises me, that would constitute, together with the record already made, a contempt, unless there's an excuse for it or justification. Procedurally, under Rule 42-B of the Federal Rules of Criminal Procedure, the Government would serve a notice, probably by order to show cause, which is the way it's usually done, in which notice there shall be a statement of the time and place of hearing, quote, "allowing a reasonable time for the preparation of the defense," unquote, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the Judge in open court in the presence of the defendant or by an order to show cause, etc.

Mr. Kossman: Well,—

Judge Herlands: Now, I know that you haven't had a chance to look at the record. I also think that possibly two or three questions have been answered, such as where the witness lives, how old he is and whether he's married and whether he has any children; but aside from those biographical facts, all the other questions have not been answered. Now, if you want to look at the record, you'll have time to look at it. Are you planning—I'm now addressing the Assistant United States Attorney—are you planning to bring on a contempt proceeding by order to show cause?

Mr. Lawler: Yes, we are, Your Honor.

Judge Herlands: And in that order to show cause will you be setting forth or attaching thereto the transcript or reciting the questions that are asked?

Mr. Lawler: We'll set forth or we'll attach to my affidavit

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transcripts of all the Grand Jury proceedings, if Your Honor wishes.

Judge Herlands: Now, what do you want me to do now?

Mr. Lawler: Your Honor, the procedure that has been followed in a number of occasions—the witness has been granted an additional opportunity to purge himself.

Judge Herlands: Is that what you want me to do?

Mr. Kossman: Well,—

Judge Herlands: You can't object to my giving him an opportunity to purge himself, if I don't make any rulings.

Mr. Kossman: I have no objection, but I'd like to put it to Your Honor this way—when he was directed by the Court, he had no counsel at that time who assisted him.

Judge Herlands: I understand he had a lawyer by the name of Lauritano.

Mr. Kossman: But the position is that he had a lawyer who, when there was a hearing here, was ordered out, and there was no consultation with Mr. Lauritano after that, and that he has advised the Government. See, I don't want to get involved in technicalities—he has advised the Government that I was just retained in the case. Now, if Your Honor—

Judge Herlands: Let's get the fact on that.

Mr. Lawler: Your Honor, in the three previous appearances of the witness, in February, April and May, he was represented by an attorney, Mr. Lauritano, and he so stated on the record. On the morning of August 4th Mr. Lauritano appeared with the witness. It appears on the record of the transcript of August 4th that Mr. Lauritano originally came in the courtroom with the witness. Thereafter he left. Judge MacMahon stated—

Judge Herlands: The third line of the first page of the transcript just handed to you states that as follows: "This

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is an application to grant the witness immunity. I notice not only is the witness, Pappadio, here, but also his attorney is still present, Mr. Lauritano." Then Judge MacMahon said, "Well, both the marshal and his attorney should leave the room. The witness will remain. Let the record reflect no one is here except the witness, the Grand Jury, the Court and the Assistant United States Attorney," unquote.

Mr. Lawler: Thereafter Mr. Lauritano did inform me that he intended to get a new attorney in the case. That was in August. Apparently he decided not to do anything until early October.

Mr. Kossman: You mean Mr. Pappadio.

Mr. Lawler: I'm sorry—Mr. Pappadio.

Mr. Kossman: But he hasn't been called. Last Tuesday was the first time he was called between August and this week.

Mr. Lawler: That's not true. He was ordered to return on August 19, at which time he returned without an attorney.

Mr. Kossman: He had no attorney and he notified—

Mr. Lawler: And his appearance was adjourned because he didn't have an attorney.

Judge Herlands: Adjourned until October 5th?

Mr. Lawler: Adjourned to a future date.

Mr. Kossman: I'm not looking to delay; all I want is fifteen minutes, Your Honor, please.

Judge Herlands: I think that's fair.

Witness: How could you give an answer in fifteen minutes?

Mr. Kossman: Look at these questions.

Judge Herlands: It won't take you more than fifteen minutes, will it?

Mr. Kossman: Not these particular questions.

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Judge Herlands: Because I, myself, look at the record this morning and it took less than fifteen minutes.

Mr. Kossman: You see—

Judge Herlands: Just a minute, Mr. Kossman. Mr. Foreman, I want to consult with you as to your convenience. Would you like or want to go out to lunch and come back at two o'clock?

Foreman: I think the—

Judge Herlands: Because fifteen minutes in court, according to what the lawyers tell the Court, in my experience always stretches out to a multiple of three or four or five times fifteen minutes. I've never heard a lawyer say it can be disposed of in fifteen minutes when it actually was. That's whether it's a prosecution attorney or a defense attorney—no reflection on anybody. Furthermore, there'll be other proceedings after the fifteen minutes. We all had official indigestion yesterday, and I think we ought to adjourn for lunch, unless there's some particular reason that the Foreman and his colleagues feel we should forego it.

Foreman: May I discuss it with the Jury a moment?

Judge Herlands: Surely.

(Foreman confers privately with Jurors)

Foreman: We'll prefer to come back at two o'clock.

Judge Herlands: Mr. Foreman and members of the Grand Jury, you will please return at two o'clock. You may step out now while I work out some procedural details with counsel here. The record will show we're taking a recess until two o'clock.

(Lunch recess).

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Judge Herlands: You may proceed, gentlemen.

Mr. Kossman: May it please the Court, I have the questions, and there are certain objections that,—and I'll abide of course by whatever the Court rules,—that I'll state now, at the outset, before the questions are asked, and go into this. The objections are based on this philosophy: for the first one, I spoke to the DA, and he told me that it was withdrawn—

Judge Herlands: Which one are you referring to?

Mr. Kossman: On page two: "When did you get back from Florida, yesterday or the day before?" Then the DA continued, "Now I'll inform you that either yesterday or,—I withdraw that." So that applies to that particular question.

Judge Herlands: Well, there are no questions on page two that are involved in this proceeding?

Mr. Kossman: That's right. Now the questions, and the philosophy for the objections are,—I submit with deference,—are based on this proposition—

Judge Herlands: Are these objections to all the questions, or to specific questions?

Mr. Kossman: To specific questions.

Judge Herlands: First will you give the specific question, then give the rationale.

Mr. Kossman: All right. "What connection if any do you have with Temple Fashions?" "How about the Star Button Company?" No objection to the next question, "What do you know about Sherwood Fashions, Inc.?" "[Isn't it a fact that Sherwood Fashions is operated or owned by a person named Thomas Lucchese?" And then the next question, "Is it your testimony that Thomas Lucchese does not operate that company?" I don't know if that's a mistake, because since he didn't give any testi-

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mony, I mean. I haven't any objection to that question. "What's your connection, if any, with Anna Lynn Sportswear Corporation?"

I have no objection to the next question; next one; next one. Now, next, "Aren't you also known by the name, Tommy Pats?" Now, I don't know if that's a mistake.

Mr. Lawler. That's a typographical error; it should be, Tommy Paps.

Judge Herlands: Well, there is no objection, with the correction?

Mr. Kossman: With the correction. Off the record, read back the correct name,—P-a-what?

Mr. Lawler: P-a-p-s.

Judge Herlands: Well, are there any other questions—?

Mr. Kossman: No.

Judge Herlands: —on that page that are objected to?

Mr. Kossman: No.

Judge Herlands: Now, we come to page four of the transcript.

Mr. Kossman: Now of course there's this great statement, and then, "Are these allegations true—?" Now, I'll assume that it's the questions that follow are the questions that the government is interested in; is that correct? Not the preamble, so to speak? Is that correct?

Mr. Lawler: No, it's not correct; it's the entire preamble.

Mr. Kossman: I'll object to the preamble. But I have no objections to, well, I have an objection to, "Isn't it a fact that you and Lucchese are in business?" Just that question.

Judge Herlands: All the other questions you have no objection to on that page—?

Mr. Kossman: Sure—

Government's Exhibit 10

Judge Herlands: —other than that question on page three, and that runs over to page four?

Mr. Kossman: Well, I have an objection. I'm going to page five: no objection to this question. And then, next question, "Do you know of anybody who's engaged in the illicit narcotics traffic?" I object to that question. No objection to the next question.

I object to this question: "If you have a source of income, Mr. Pappadio, is it derived from any legitimate business?"

No objection to the following question at the bottom of the page.

Judge Herlands: There are no objections to any of the questions on page five, other than those that you've noted?

Mr. Kossman: That's correct.

Judge Herlands: And there is an objection only to the one question reading, "If you have a source of income, Mr. Pappadio, is it derived from any legitimate business?"

Mr. Kossman: Yes. Page six, well, no objection to the first, second, third, fourth, fifth, sixth. Well now, I object to this other question, "I told you once before,—"—to this series of questions.

Judge Herlands: You object to the question that begins—

Mr. Kossman: "I told you once before"—that particular question. "It has been alleged"; "it has been alleged",—and it's all once sentence.

I have no objections to the next question, but I have an objection to the question, "Did you meet anyone on those trips—?" And the next question I object to, "Did you have any dealings with anybody—"? I have no objection to the next question, to the last one,—“Did you arrange to have—?”

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Judge Herlands: We come to page seven on—?

Mr. Kossman: On page seven I object to that question—

Judge Herlands: "Did you ever—?"

Mr. Kossman: "—have any conversations with Thomas Lucchese concerning narcotics—?"

"How well—?"—no objection to that; no objection to the next one, to the next one; no objection to the next one. No objection to the next one. I object to the fifth from the bottom, "Did you ever have any discussion with John Ormento about narcotics?" And then the next one.

Judge Herlands: Do you have objection to that, "When did you have this discussion?", et cetera?

Mr. Kossman: Yes; no objection to the next one, "Who did—?" Now, I have an objection to the one starting, "In the 1930's—".

Judge Herlands: All right. Now, before we leave page seven, you have objection to four questions on that page? To the question starting, in the first line, the question,—the fourth question from the bottom, "Did you ever have any discussion", et cetera?

Mr. Kossman: Yes.

Judge Herlands: The next question, "When did you have this discussion?", et cetera, and the next question, beginning "In the 1930's,"—on that page?

Mr. Kossman: Yes; which swings over to the following page.

Judge Herlands: I understand that the government was going to withdraw that question.

Mr. Lawler: At this time we are going to withdraw that question.

Judge Herlands: The question that begins on the bottom of page seven—

Mr. Lawler: "In the 1930's,"—

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Judge Herlands: —and ends with the word “fraudulently” on page eight; that question is being withdrawn.

Mr. Kossman: I beg your pardon?

Mr. Tendency: We're withdrawing that question.

Judge Herlands: That's the question you've been referring to.

Mr. Kossman: Is that being withdrawn; the one about the 1930's?

Mr. Lawler: That's right.

Judge Herlands: You recall that discussion, Mr. Kossman?

Mr. Kossman: Yes. Then the other question, am I right, “—you received a presidential pardon”?

Mr. Lawler: That's correct.

Mr. Kossman: Well, the last question, the one on page seven, the one before the last?

Judge Herlands: Which question is that?

Mr. Kossman: “When did you have the discussion?” Who did Ormento deal with in narcotics?”

Judge Herlands: “Who did Ormento deal with in narcotics?”

Mr. Kossman: Yes.

Judge Herlands: You have no objection to that, you say?

Mr. Kossman: No.

Judge Herlands: But you do object to the two preceding questions?

Mr. Kossman: Yes.

Judge Herlands: All right; I just want the record to be clear. And now, that states your objections?

Mr. Kossman: The nature of the objections, yes. I'll put it to Your Honor this way, to quote again from *Piemonti vs. the United States*, in this case; I have #367 United States #5666-566. I have the majority opinion with me;

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citing from the majority opinion: "The first morning before the Grand Jury, the government attorney asked petitioner, "Didn't your lawyers advise you, Mr. Piemonti, on those matters that you pleaded guilty to in the indictment, that you have no constitutional privilege against self-incrimination?" However, the government, in order to avoid any argumentative opportunities as to the scope of the area for which it sought immunity, did not attempt to secure an order directing for the particular question relating to matters involved in this. It requested a broad order of immunity, requesting the scope of what was under investigation by the Grand Jury.

The United States Attorney requested the judge to seek an order compelling testimony. So that the Court would not have any misconception of the idea of the counsel in this matter, we do think that the constitutional privilege claimed by the witness is well-taken in this matter.

Now there were the teachings in this matter. Even in the Harris case that was cited in the Second Circuit in favor of the government's petition, 34 Federal, Second, #460, the emphasis is laid that the questions themselves reveal a substantial link with those sections of the Communications Act which prohibit any person from causing the telephone—a telephone company to violate any part of the Act. In a note in the Yale Law Journal, Summer, 1963, Volume 72, there is an article entitled, "The Federal Witness Immunity Act, in Theory and Practice: Treading the Constitutional Tight-rope." Well, to try to be as brief as I can, the philosophy of the various cases in the notes is there is no general immunity statute. There are many specific immunity statutes. There is a bill to try to get immunity statutes. Their is a bill to try to get an immunity statute,—a general one. Therefore, the cases hold that you cannot ask a man a question,

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even though he has immunity, even though his answer will protect him,—you cannot ask him a question outside of the particular immunity statute scope.

In other words, you cannot ask a man, “When was the last time you robbed your father-in-law’s house?” So therefore, to come down to specifics: “What connection if any do you have with Temple Fashions?” The government would have to make a slightest showing that there would be some relevancy to the inquiry that they claim would be in the national interest. It certainly isn’t in the national interest, and that’s the basis for which you can base any specific constitutionality of any statute.

So with the Ullman (phonetic) case, dealing with national security, or the Reina case, dealing with narcotics. Now, “How about the Star Button Company?” These are personal questions. As a matter of fact, I think that we—I—have not objected, really, to questions that I might well have, like, “Did you file an income tax return for 1962?”

And I might interrupt by saying that there was a great feeling on the part of the witness that, due to his prior indictment, that he had to tread the tightrope very gingerly. But of course, that has been cleared up by Your Honor’s ruling.

Now, the next question, “Isn’t it a fact that Sherwood Fashions is operated or owned by a person named Thomas Lucchese?” Now that’s a double question. It may be operated, it may be owned, but it may be stated on the witness stand.

Then the next question, “Is it your testimony that Thomas Lucchese does not operate that company?” He didn’t give that testimony. I don’t know whether that just slipped in or not. “What’s your connection, if any, with Anna Lynn Sportswear Corporation?” Showing that there

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is no relevancy to the inquiry for which the Grand Jury is sitting—having no connection—I have no objection.

Judge Herlands: You have no objection to what?

Mr. Kossman: I mean, we have no objection, I think, to any other question on that page; is that correct, Your Honor? Or did I object?

Judge Herlands: Well, according to my box score of your objections, there is the objection to the question that begins on the last line.

Mr. Kossman: That's right; that carries over, yes. Now, that one, that really is, well,—“So that you'll have a better appreciation of the purpose of this Grand Jury, I want to advise you that there has been testimony before a Senate Committee, and statements have been made to a Federal law-enforcement agency, that a person named Thomas Lucchese is at the head of a number of people that are engaged in a number of illegal narcotics activities. It's been alleged that these people are—you also are a member of this group.” “Now what we're trying to find out is, are these allegations true or false?” “Are these allegations true—?” Now, it doesn't refer to what follows. They're referring to what precedes. Now if it involves a number of illegal activities, he certainly wouldn't have to answer that, because, if they want to say, “One of these is in the narcotics—”, there would be a difference carved out from that itself.

Now, whether they used the plural, “these allegations”, and I submit that's a tough question to answer specifically, it's a sort of a question that, if any witness was asked on the stand, let alone in the Grand Jury testimony, he'd have to run out and ask a lawyer's advice. It would be very hard. Maybe we can solve that problem now.

Now, I'll go by Your Honor's box score: do we have any more questions?

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Judge Herlands: Well, the one that you objected to, "Isn't it a fact that you and Lucchese are in business?"

Mr. Kossman: Yes, I'm sorry, I didn't—that is, if you want to say, "narcotics business", I mean, we have no objection to answering it. But if you say, "business", in a broad sense, there, then, you see, it's not within the scope of the inquiry. Now then, they use the words, "all of the people", "incidentally, now",—I don't know what the word, "incidentally" means. It seems to me we're entitled to some protection in this case. If the government is looking for information, and we're perfectly willing to give them the information, then there shouldn't be a technicality, if there was one word left out, or one syllable left out. Now, on page—is it all right to proceed?

Judge Herlands: Yes.

Mr. Kossman: On page five, "Do you know of anybody who's engaged in the illicit narcotics traffic?" Now that's an unfair question, because he—because he might be engaged in an illicit narcotics traffic, and the way it's worded, he can say, "You know me"—and it turns out later wrong,—so why should a man be asked a question, "Do you know of anybody who's engaged in the illicit narcotics traffic?" There should be some specific limitation, in order to protect a person in general, because there are a lot of people who may be engaged, and he doesn't know. "Are you—", we have no objection to that. "Have you ever been—?", we have no objection to that.

Now, we have an objection to, "If you have a source of income derived from any legitimate business—" now, suppose he's making money betting on the world series, or bets, or bookmaking? That's not within the scope of our authority, and I don't mean to be facetious. That's a protection that the law gives us.

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I'll refer to Your Honor's box score again?

Judge Herlands: Now, how about the objections on that page?

Mr. Kossman: I want to be—I want to be—with Your Honor's—I mean, when I say that there will be answers, I mean I want to tell Your Honor frankly that some of the answers of these,—I don't know; I wasn't there. In other words, a question like that, "What discussion was there?", I don't know. In other words, when I say, "answer", I don't want Your Honor to feel that I'm giving affirmative testimony on certain questions. I just don't know on certain questions.

Now I think I have an objection to the question, "When was the first time you met him?" "How long have you known—?"

Judge Herlands: Well, you didn't take an objection before.

Mr. Kossman: No, but—"When was the first time you met him"—did I miss that one?

Judge Herlands: I don't know whether you missed it or not, but there it is.

Mr. Kossman: Well, could I put that in again?

Judge Herlands: You're the master of your own objections.

Mr. Kossman: I'd like to put that in.

Judge Herlands: "When was the first time you met him?"

Mr. Kossman: I'll give the argument for that. "When was the first time you met him?" is such a—it's a hard thing to place. I mean, if you had a discussion with an individual,—in indefiniteness.

Now the next question, "Did you meet anyone on these trips?" Well, he may have met a thousand people. We cer-

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tainly object to a generality. "Have you taken any trips to Europe or any place?" I have no objection. "Did you meet anyone on these trips?" There's no question he met people on these trips,—bellboys, waiters, waitresses, et cetera. Now, "Did you have any dealings with anybody you met on those trips?" I don't,—he might have had a lot of dealings, legal, illegal,—but certainly nothing within the scope of this Grand Jury.

Now, the next question: "Did you ever have any conversations with Thomas Lucchese concerning narcotics?" Well, that's a question,—when you say, "any conversations concerning—",—I mean, people have conversations all the time. I had a conversation with the District Attorney concerning narcotics. In that broad scope, for a person to say, "No, I didn't—"; then they'll say,—oh, then they'll say—they'll bring in two witnesses who say, "Don't you remember somebody got twenty", or "forty years over something like that?" Now, maybe we're fearful, maybe we suspect the DA's office of things that are never in their heart. On the basis of past performances, we appeal to Your Honor for protection.

Now, again,—by the way,—well, to go on: "Did you ever have any discussions with John Ormento?" Those were the same things that he should be protected—he's not objecting, "Did you ever have any dealings with him?" But, "Did you ever have any discussions—?" I mean,—the word, "discussions"—I guess everybody's had discussions. Now, well, I think that ends that.

"When did you have this discussion, and what was said?" Well, I mean, I don't want, as I say,—I don't want to trespass on eternity. I mean, it's a specific statute. They cannot ask questions that are not related to the inquiry. Unless there would be a showing made to the Court by the District Attorney, I feel that we're entitled to some protection.

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Judge Herlands: By the way, certain papers were ordered sealed by Judge MacMahon: would you hand them up? I assume that's the application—?

Mr. Lawler: That's correct, Your Honor.

Judge Herlands: —together with the Attorney General's letter of approval?

Mr. Lawler: And, I also believe,—and the order of Judge MacMahon.

Judge Herlands: What is your position about citing any of it, Mr. Kossman?

Mr. Kossman: What papers are those?

Judge Herlands: Well, those—the order of Judge MacMahon,—

Mr. Kossman: No objection on that.

Judge Herlands: —this is the affidavit of Mr. Morgenthau, and the letter of Mr. Kennedy, the Attorney General.

Mr. Lawler: No objection.

Judge Herlands: The transcript of this witness, February 14, 1964, April 24, 1964 and May 8, 1964.

Mr. Lawler: As to that, I don't think there's any necessity.

Judge Herlands: Well, it has a bearing, showing what the Grand Jury was investigating.

Mr. Lawler: Then I'll withdraw the objection.

Judge Herlands: And most, if not all, of the questions—of the transcripts,—I'll repeat,—the transcripts,—that are before me,—

Mr. Lawler: That was the position I was going to take—

Judge Herlands: —in order that—in order that there may be no mystery as to what was in this envelope, I will state on the record that there are five papers. The first is an order of Judge MacMahon, dated August 4, 1964. The next is Mr. Morgenthau's affidavit and the letter of the

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Attorney General which laid predicate for the invocation of the immunity statute here involved and then you will have the three Grand Jury transcripts with the dates previously mentioned. The Government says that it will make these available for the inspection of Mr. Kossman and there is no necessity of having them sealed for purposes of this proceeding. I am returning the open envelope to Mr. Lawler. I think these records have a bearing on some of the points made by Mr. Kossman. Is there anything you want to say, Mr. Lawler, before we move ahead on this?

Mr. Lawler: The only point I wish to make with respect to the relevance of certain references, if it please Your Honor, is that the law is certainly clear that the witness may not limit the scope of a Grand Jury investigation. The mere fact that the term "narcotics" is not mentioned in a particular question or alluded to in a question, it does not mean that there is no connection between that question and the investigation of the narcotics field. There has never been any law to the effect that the Government is required to show some affirmative connection between its question and the Grand Jury investigation. The witness has been granted complete immunity. He is fully protected as to any testimony he might give before the Grand Jury, and in light of those facts, your Honor, I think the Grand Jury should be granted great latitude in its investigation of the narcotics field in this case. As to certain other objections that Mr. Kossman has made, specifically as to the trip to Europe, or depending on the question, if we receive an affirmative answer that he did take a trip to Europe, I think the questions should be altered to meet the objection; we can become more specific. With respect to certain other objections I think it's safe to say that they are just without merit. With respect to the objection as to discussions

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he had with others, I think the question is specific enough so that the witness can adequately answer.

Judge Herlands: I shall for present purposes simply indicate my views with regard to the questions objected to by Mr. Kossman, as follows: I believe that the Government has shown on the total record now before me that the Grand Jury was inquiring into the question of violations of the statutes embraced within Section 1406 of United States Code, Title 18; that the questions objected to bear a substantial relation to the subject matter of the immunity provision; that the extent in general to which a witness may inquire into the subject matter of the Grand Jury investigation is severely circumscribed in light of the secrecy in which Grand Jury proceedings have traditionally been held; that the Government has established that the Grand Jury investigation is within the confines of Section 1406; that it is not necessary for each and every question to be considered in isolation to indicate on its face that that specific question has a relationship to the subject matter of the Grand Jury's investigation so far as Section 1406 is concerned, but that the questions must be considered in conjunction and in context with each other and that the questions must be considered in their entirety, so that viewed in the aggregate they evince genuineness of an inquiry directed in good faith to the matters into which the Grand Jury is inquiring, which matters come within the scope of Section 1406; that the Government has sufficiently established the necessary link of possible violation of the statutes coming within Section 1406 on the theory which the Government here proffers: that the teaching of the Harris case decided by the Court of Appeals on July 22, 1964 has been recognized by this Court and demonstrates the propriety of these questions.

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And dealing with certain specific questions; illustratively, the question: "Did you meet anyone on these trips?" which appears on page 6, while generally formed, may be a preliminary or foundation question, because if the witness says he didn't meet anybody either at the station, or state-room, or at the airport and didn't talk to anybody, that is one thing, but if he says he met someone, that lays predicate for a question of, "Whom did you meet" "Where did you go?" and so you can take the question as vacuous. It's true that the modo et forma of a question—"Did you meet anyone on these trips?" might appear to be overgeneralized, but having in mind that even a "Yes" to such a question would be entirely innocuous, it is evident that what the prosecutor in all likelihood seeks to demonstrate is that he did meet persons and he would then ask the logical next question, who they were. If he says, "I just went for the trip and didn't meet anybody," that might open up another avenue of inquiry. Similarly the question "Did you have any dealings with anybody on these trips—" etc., which appears on page 6, while on its face rather broad and obscure and innocuous, yet considered as a preliminary foundation question is perfectly proper. Nobody is placed in jeopardy or exposed to any danger if he says "Yes." Then when he is asked what the dealings were, if he says that he purchased some perfume for his wife, obviously the question about dealings is simply a preliminary question which nobody is going to object, as to which no one will be harmed in any conceivable way merely by answering it one way or the other.

The question "Did you ever have any conversations with Thomas Lucchese concerning narcotics?" is perfectly proper. If the conversations with Thomas Lucchese related to proposed legislation in Congress or some law journal as

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the Yale Law Review or a Harvard law article, you could say so. So the supposititious case as presented by counsel cuts the other way. Now, obviously, conversations concerning narcotics, if the answer is "Yes," would be a foundation question. It only goes to show how you can take a logical argument and produce an absurdity if the logic is unrealistic.

Now, the same thing—"Did you ever have any discussion with John Ormento about narcotics?" Well, discussion means conversation—obviously a preliminary question. A mere conversation about a subject doesn't prove anything. It may, on the other hand, be a link or a clue or a lead. The Grand Jury, being an investigative body, is entitled to uncover clues or leads or links. I have attempted to express my views specifically with respect to each and every question that has been objected to, but I have indicated the approach to these matters; namely, that you have got to be realistic. And I believe that the Government is entitled to take the next step. Mr. Lawler, what do you propose?

Mr. Lawler: Your Honor, I believe that Mr. Kossman has indicated that the witness will answer these questions with the limitation—with certain objections which he intended to make and I assume that, now that his objections have been ruled on, that the witness will answer those questions. Is that correct, Mr. Kossman?

Mr. Kossman: That is my opinion.

Mr. Lawler: My only point:—if the witness intends to answer these questions, then there is no point in tying up Your Honor for the rest of the afternoon.

Judge Herlands: My understanding is, in fact, obviously, as to those questions to which you have no objection, the witness will answer to the best of his recollection and abil-

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ity; as to those questions to which you interposed an objection and as to which I have overruled the objections, he will answer the questions to the best of his ability and to the best of his recollection.

Mr. Kossman: Yes, Your Honor; that is how the case stands.

Judge Herlands: That being the case, what will the Grand Jury do?

Mr. Lawler: In the order which Judge MacMahon signed in August 4, he ordered the witness to reappear before the Grand Jury and give testimony. So that it's clear in the record, will Your Honor instruct the witness that the Government is limited to the date which has been set; that we may explore this investigation further with additional questions and that he will have full and complete immunity as to each answer he gives to those questions.

Mr. Kossman: But, of course, I take it for granted that these additional questions, he will have an opportunity to consult counsel when he is asked these particular questions.

Judge Herlands: We have two categories of questions: those which have already come before the Court and which have been ruled upon by the Court, and then we have the category of questions which shall be so-called new questions as to which, in the event the witness doesn't answer and he confers with counsel, there may or may not be proceedings, depending upon the nature of the question; but the witness is instructed that he has full and complete and comprehensive immunity under the statute which has been explained to him before by Judge MacMahon, Section 1406. I assume you have also instructed him as to the views of that statute, Mr. Kossman?

Mr. Kossman: Well, I didn't use the word "instruct."

Judge Herlands: I mean you have explained.

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Mr. Kossman: Yes, I explained it to him.

Judge Herlands: Yes; that is your function as a lawyer. Is that right?

Mr. Kossman: Yes.

Judge Herlands: And you will probably have further conversations with him on that subject?

Mr. Kossman: No question about that.

Judge Herlands: So that the record is clear: The witness knows, both through directions of the Court and through the advice of counsel, what Section 1406 means, so far as a layman can understand Section 1406?

Mr. Kossman: So far as I can, myself, understand it.

Judge Herlands: Therefore, the witness is directed to answer any and all questions that are put to him by the prosecutor or before this Grand Jury relating to the matter now pending before this Grand Jury.

Mr. Kossman: You mean with respect to the new questions and the old questions?

Judge Herlands: Clearly, as to the old questions, he has been instructed and reinstructed and re-reinstructed. As to the new questions, I am now giving him brand new instructions.

Mr. Kossman: My thought is this, Your Honor: I know Your Honor is qualified and I know how motions for rehearings this refers to in essence, but the Reina case holds, it's true you have immunity, but it does not permit the Government to ask new questions even though you have immunity, because they say you have no right to. Now, I don't know what new questions they may ask, so to speak.

Judge Herlands: Sufficient unto the day are the questions thereof. We will find out if it is necessary. I presume, as every one must presume, that these public motions are conducted in good faith and they are conducting a bona

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fide investigation before this Grand Jury. That appears abundantly from the papers before me and I so find. I have no reason to assume the contrary. If they go on a frolic and detour, the Court will entertain any reasonable objection. The Court hopes and trusts that counsel will not indulge in frivolous objections and I have no reason to believe that there will be any engaged in. I propose to have this Grand Jury move ahead with all due speed consistent with the rights of the witness, not only this witness but any other witness. Now, we also are realists. If there comes a day when the matter is litigated and arguments are heard, the Court makes rulings. Now, let's go ahead.

Mr. Lawler: Your Honor, the Grand Jury is returning tomorrow morning and would you instruct the witness to reappear before this Grand Jury at 10:30 tomorrow morning, room 1401?

Judge Herlands: The witness is instructed to appear before the Grand Jury tomorrow morning at 10:30, in room—?

Mr. Lawler: 1401.

Judge Herlands: Room 1401. You understand that, Mr. Witness?

Witness: Yes.

Mr. Kossman: I don't want to push, Your Honor—

Judge Herlands: And the Grand Jury will return at that time. Is that when you want the Grand Jury?

Mr. Lawler: That's correct, sir.

Judge Herlands: 10:30 tomorrow morning.

Mr. Kossman: I was going to suggest we switch to Monday.

Judge Herlands. No. It's in the interest of justice that we go ahead. All right. Recess.

Mr. Lawler: Thank you, Your Honor.

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Mr. Tendy: Ten o'clock for the Grand Jury.

Judge Herlands: The Grand Jury will be back tomorrow morning at ten o'clock.

Mr. Lawler: The witness at 10:30 in the morning.

Judge Herlands: The witness will come back at 10:30. All right. The Grand Jury may step out. If there is no further business, the Court will stand in recess.

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October 9, 1964

Sept. Spl. Re: John Doe

Mr. Tendy (Mr. Lawler)

Andimo Pappadio

ANDIMO PAPPADIO, called as a witness, and having been duly sworn by the Deputy Foreman in the absence of the Foreman of the Grand Jury, testified as follows:

By Mr. Tendy:

Q. Mr. Pappadio, as a result of the proceedings that occurred yesterday before Judge Herlands, I am going to ask you certain questions. Now, I might point out to you that this morning I am not going to ask you all of the questions that the Court directed you to answer, but I will ask most of them. My first question is this: How long have you known John Ormento? A. Twenty, thirty years.

Q. How did you meet him? A. I'd like to consult with my attorney how I met him, if it is permissible with you.

Q. Just a minute. Maybe we can kill a couple of birds here with the same stone, Mr. Pappadio. How long have you known Salvatore Santoro? Over twenty years.

Q. And how did you meet him? A. I'd like to consult with my attorney.

You are also known by the nickname Tommy Papps, is that correct? A. I'd like to consult with my attorney on that.

Q. All right. We'll leave it at just that group of questions so you won't have any difficulty in remembering what you have to talk about with your lawyer. Go ahead. A. All right.

(Witness leaves room and returns.)

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Q. Have you consulted with your attorney, Mr. Pappadio?

A. Yes, Mr. Tendy.

Q. All right. Now, my question is: How did you come to meet John Ormento? A. That's over twenty, thirty years ago, Mr. Tendy, and how I really met him I wouldn't remember exactly who made me meet him, how I met him, but he lived in the same neighborhood with me, in the same street practically.

Q. Well, would it be fair to say that you grew up together?

A. Well, I wouldn't say we grew up together. We just grew up in the same neighborhood.

Q. I see. How did you come to Salvatore Santoro? A. Same way.

Q. Same way? A. (Nods.)

Q. When did you last see John Ormento? By that I mean, when did you last sit down and talk with him or have some contact with him? A. Contact with him, you are asking?

Q. Yes. A. What do you mean by contact?

Q. When did you last have a conversation with him? A. When you say "conversation," you mean hello or goodbye or—

Q. Anything at all, any word at all that might have passed between you, either personally or on the telephone.

Q. I wouldn't remember exactly when.

Q. I don't expect you to be exact about it, Mr. Pappadio. Give me your best recollection. A. I couldn't say if it was 3 or 4 years, 2 years; 2, 3, 4 years.

Q. Do you remember where this occurred? A. Out in Lido Beach.

Q. Was that at his home? A. No, sir.

Q. He does live in Lido Beach, or don't you know that? A. Yes, sir.

Q. Where in Lido Beach? The street? The Eva Drive.

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Q. Whose house is that? A. I don't know who owns the house.

Q. Were you in the house? A. Not when I spoke to him.

Q. On the sidewalk? A. On the street.

Q. How did you happen to meet him on that occasion? A. By accident.

Q. What were you doing in Lido Beach on that occasion?

A. I live there.

Q. Well, the house near where you spoke to Ormento, is that close to where you live? A. Yes, sir.

Q. How close? A. A block away.

Q. Do you happen to know what he was doing out there on that occasion? A. No.

Q. What did you talk about? (No response.)

Q. What did you talk about? A. We didn't talk. He says—All he says is, "Hello. How are you?" I am in the car and kept going.

Q. That is all? A. (Nods.)

Q. When was the last time you met with Salvatore Santoro? A. Six, seven years ago.

Q. Do you remember where this meeting took place? A. In the court house.

Q. Was that on the occasion when you and Santoro were in court concerning the indictment in which you were both named? A. Yes, sir.

Q. What did you talk about on that occasion? A. That we were on trial.

Q. What else did you say? A. What else did I say?

Q. Yes? A. That I'd like to take up with my attorney.

Q. What did Santoro say? A. That I'd like to take up with my attorney.

Q. Go ahead.

(Witness leaves room and returns.)

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A. Mr. Tendy, the reason I went out I want to make sure I don't make any technical mistakes.

Q. That is all right. You are perfectly free to talk to your lawyer at any time. A. I believe the last time I saw Salvatore Santoro, I believe, was here in this building and the thing I—we talked on when will the Government be ready to go on trial. I was here for pleading at the time. I believe that would be the last time I saw him.

Q. Have you had occasion to speak to him on the telephone since that occasion? A. No, sir.

Q. I understand that you live at 121 Eva Drive in Lido Beach; is that correct? A. Yes, sir.

Q. Do you own that home? A. My wife and I.

Q. Is there a mortgage on it? A. Yes, sir.

Q. Tell us how much, please. A. You mean the present mortgage?

Q. Yes. A. I wouldn't know the exact mortgage.

Q. Do you have an approximate idea? A. Sixteen, seventeen, eighteen thousand.

Q. If I said somewhere between fifteen and twenty thousand, would I be fairly correct? A. Fifteen and twenty thousand. I thought you said fifty.

Q. What did you pay for the home? A. Well, I don't remember.

Q. How long have you had it? A. Eight or nine years.

Q. You don't remember what you paid? A. Thirty some odd thousand.

Q. Once before in the Grand Jury and yesterday in court we made the statement and then we asked the question—Let me read it to you:

“So that you'll have a better appreciation of the purpose of this Grand Jury proceeding, I want to advise you that there's been testimony before a

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Senate committee and statements have been made to Federal law enforcement agencies that a person named Thomas Lucchese is at the head of a group of people that are engaged in a number of illegal activities. It has been alleged that some of these—that one of these alleged illegal activities is the illicit narcotics traffic. It's also been alleged, sir, that you are a member of this particular group. Now, what we're attempting to do is find out whether or not these allegations are true or false."

Are they true? A. I'd like to take that up with my attorney. What page is that, Mr. Tendy?

Q. This is on page 4 of the proceedings on August 4.

(Witness leaves room and returns.)

Q. All right, sir. A. Mr. Tendy, would you mind reading that out to me? I am not—I get a little confused, sir.

Q. Sure.

"So that you'll have a better appreciation of the purpose of this Grand Jury proceeding, I want to advise you that there's been testimony before a Senate committee and statements have been made to Federal law enforcement agencies that a person named Thomas Lucchese is at the head of a group of people that are engaged in a number of illegal activities. It has been alleged that one of these alleged illegal activities is the illicit narcotics traffic. It's also been alleged, sir, that you are a member of this particular group.—

Q. Now, what we're attempting to do is to find out whether or not these allegations are true or false. Are

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these allegations true? A. I am not a member of this group if they exist. I have no knowledge if there is a group. I do not deal in narcotics. I do not know if Mr. Luchese deals in narcotics and I do not know if anybody else in this room or out of this room is dealing with narcotics.

Q. All right; have you ever heard of a group of people headed up by Tommy Luchese? A. No, sir; outside of listening to it here and reading in the newspapers, what you read in the newspaper.

Q. I understand. Do you know Tommy Luchese? A. Yes, sir.

Q. How long have you known him? A. About twenty years.

Q. How did you meet him? A. I know him from my neighborhood.

Q. I assume that you mean the East Harlem neighborhood. A. East Harlem.

Q. And doesn't he live in Lido Beach also? A. At the present time?

Q. Yes. A. I know he lives there.

Q. Do you know where he lives? A. Do I know where he lives, Royat Street.

Q. How do you spell that? A. R-o-y-a-t.

Q. Have you ever been to his home in Royat Street? A. Yes, sir.

Q. When were you there last? A. Many, many months ago.

Q. How many months ago? A. About four months, three months.

Q. Has he ever been to your home? A. Maybe two or three or four years ago.

Q. What was the occasion of your visit to his home two

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or three or four months ago, as you put it? A. Just went over to say hello to him; went over to say hello to him.

Q. What did you say? A. Hello.

Q. That's all? A. We talked about politics.

Q. What else? A. We did not talk about narcotics, Mr. Tandy.

Q. OK, what did you talk about besides politics? A. We talked about how my business is, how bad it's going, how good his business is. He's in dresses. I'm in the manufacture of ladies' coats.

Q. Did you talk about these Grand Jury proceedings at all? A. I'd like to consult with my attorney.

Q. Go ahead; and also tell him I'm going to ask you, if you did talk about them, what did you say.

(Witness leaves room and returns.)

Q. Yes, sir. A. This was on what did we talk about?

Q. I want to know whether or not you and Luchese talked about these Grand Jury proceedings when you were to his home two or three or four months ago? A. I suppose I might have mentioned to him that I wasn't called for a while and didn't get no subpoena and I might have asked him if he was called.

Q. Well, what did you actually say in that connection and what did he say? A. That he wasn't called no more.

Q. What else? A. That's all I remember.

Q. Did you and he discuss how you were going to handle these proceedings? A. No, sir.

Q. Did you and he talk about what questions were asked of you and what questions were asked of him? A. No, sir.

Q. You didn't? A. No; not that I remember.

Q. You're sure of that? A. Not that I remember.

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Q. Well, is there any doubt about it in your mind? A. I don't remember any conversation like that.

Q. Who else was present on this occasion? A. Nobody else.

Q. Just the two of you alone in the house? A. That's right.

Q. And how many other occasions since these Grand Jury proceedings began have you spoken with Luchese about them? A. About these Grand Jury proceedings?

Q. Yes. A. I'll have to consult with my attorney.

Q. Very well. Of course, you realize, Mr. Pappadio, before you go outside—I know you're entitled to these consultations and you're going to get them every time you want one—but it prolongs the proceedings. A. I'm not trying to—

Q. I know that. I know that. I just want you to be aware of that. A. I didn't get up on every question. I tried to answer to the best of my ability.

Q. It will just necessitate additional appearances, that's all.

(Witness leaves room at 11:05 A.M. and returned at 11:14 A.M.)

The Witness: I want it to be known for the record, Mr. Tendy, that if you think I'm out there too long, that one of the Assistant District Attorneys from here was standing out there and it's very hard for us to talk, so we have to wait until he gets in the elevator to go down so we can talk.

Q. You mean just because an Assistant U. S. Attorney is there— A. If you know Mr. Kossman how loud he talks, and I think you know him by now, he's just shouting all

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over the hall, and if you want to ask something, he's just shouting.

Q. Very well. On how many occasions have you and Luchese discussed these Grand Jury proceedings since they began? A. Exact amount of occasions I don't remember, and any conversations we had I think it's with attorneys, Mr. Tendy.

Q. Approximately how many such conversations did you have? A. A few.

Q. What do you mean by a few? A. Three.

Q. Just three? A. Around three.

Q. And do you recall where these conversations took place? A. That's the privilege of attorney and client, I believe.

Q. Well, for your information, Mr. Pappadio, the privilege is not the attorney's. It's the client's. A. Well, then, it's my privilege. I'm not an attorney. You're an attorney. You can correct my English or correct my wording.

Q. I didn't mean to be critical of your English or your wording. It's just when somebody consults with a lawyer about a legal problem, the lawyer is not free to discuss that with anybody else, but there is no such prohibition as far as the client is concerned. That's what I meant when I said the privilege is the client's. A. Thank you for correcting me.

Q. Would you read that last question back to me so I don't lose my trend of thought?

(Reporter reads: And do you recall where these conversations took place?)

That's the question. A. Well, it's my privilege.

Q. You have no privilege, not on this. You have been

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granted immunity, Mr. Pappadio. A. Then I'll have to consult with my attorney. I didn't ask him that question.

Mr. Tendy: Very well; go right ahead.

(Witness leaves room at 11:17 A.M.)

(Witness Andimo Pappadio returns at 11:25 A.M.)

Q. Yes, Mr. Pappadio? A. Well, the answer to that is that we've met with lawyers in different places, and what we talked about is my privilege with the counsellors, with the different lawyers.

Q. Well, Mr. Pappadio, I can't agree that you have a privilege here, and this is going to necessitate, I'm sure, an additional instruction from the Court, to tell you that you can't decline to answer, which is, in substance, what you're doing here. A. I'm not trying to do that, Mr. Tendy. I'm trying to answer you to the best of my ability.

Q. I'm assuming what you're saying to me you're saying in good faith. I'm also telling you that you have no right to decline to answer it. A. I'm not declining to answer. I'm giving you whatever answer—

Q. Let's start all over. Where did you have these meetings? A. Meetings with lawyers in different places.

Q. Name one place. A. I can't tell you the places I met with lawyers.

Q. Are you refusing to tell me? A. I'm not refusing. I'm—think it's a privilege between the lawyers and myself.

Q. I haven't asked you so far what was said on these occasions. I'm merely asking you as of now, where did the meetings take place? A. I gave you the answer to the best of my ability, Mr. Tendy.

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Q. Are you telling me that you don't know where the meetings took place? A. I says in various places with attorneys, with lawyers being present.

Q. Let's try to be specific. Name one of these various places. A. We're going to waste more time.

Q. Pardon? A. We're going to waste more time. I got to go out and talk to my lawyer—we're going to waste more time.

Q. Didn't you just go out and talk to him about that? A. I went out and talked to him about it. This is the way I decided to answer it.

Q. What do you have to discuss with him now? A. I don't know. When I get out there, I start talking to him.

Q. You don't know why you're going out? A. I know why I'm going out.

Q. Why? A. When I get out there, I'll talk to him first, and then I'll let you know what I'm talking about.

Q. Let's take another question. Go out and tell him that I've asked you to name the places where you met with Lucchese since these Grand Jury proceedings began. That's number one. My next question to you is this—who was present at these meetings? Do you understand those two questions? A. (Nods).

Q. What's the answer to the last question? Who was present? A. Who was present—you want to know who was present at the meetings?

Q. That's right—where the meetings took place and who was present. A. That's right.

Q. Okay? A. Okay.

(Witness leaves room at 11:28 A. M., returns after Jury's ten-minute recess.)

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Q. All right, sir. A. On that question I'm answering, I'm taking—this is counsellor and client privileges.

Q. In other words, you decline to answer, because you claim an attorney-client relationship, the questions, "Where did the meetings take place?" and, "Who was present?" am I correct? A. That's right.

Q. Okay. Who arranged the meetings? A. What meetings?

Q. The meetings that we've been talking about this morning. A. Which meetings?

Q. The meetings— A. Those meetings that you're talking about here with lawyers and—

Q. That's right, that's right. A. I have to consult my attorney.

Q. Okay. Do that in just a few seconds. How long did the meetings last? A. Same answer I gave before, Mr. Tendy. Attorney and client privilege.

Q. What time of the day did the meetings take place? A. Same answer, Mr. Tendy—client and attorney privilege. Client privilege or whichever way I got to put it.

Q. Do you know of any meetings that took place between Lucchese and any of the other people who've been subpoenaed before this Grand Jury on these proceedings? A. Not to my knowledge.

Q. None of them? A. Not to my knowledge.

Q. Did you hear of any such meetings, even though you might not have been there, yourself? A. No sir.

Q. Have you discussed these Grand Jury proceedings with Carmine Tramunti? A. You say, "Grand Jury procedures," Mr. Tendy—it's so broad. You mean the questions that you ask of me, did I talk to him about it?

Q. Okay, I'll rephrase it. Have you and Tramunti had any kind of a conversation at any time concerning these

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proceedings? You can answer that one yes or no. Any kind of a conversation. A. What do you mean, if I got a subpoena?

Q. Any kind of a conversation. Did you talk to him about these things? A. Did I talk to him about what's going on in this room?

Q. That's right. A. What's going on in this room?

Q. That's right. A. No, I didn't talk to him about what's going on in this room.

Q. Did you talk to him about the fact that you'd been subpoenaed before the Grand Jury. A. When I see him up here.

Q. Those are the only times? A. That's right.

Q. You've never discussed these proceedings with him outside this Court House? A. You're getting a little technical. When you say outside this Court House, you could be walking outside in the street out of the Court House.

Q. That's right, anything outside of the doors. A. That's what I mean—you're getting tricky, and I'm only here as a witness. I'm here as a witness and you're going to make a defendant out of me.

Q. All right, I'll try not to be tricky. Have you and Tramunti talked at all about your appearance before this Grand Jury outside of this building, outside of the doors of this building? A. I don't remember, Mr. Tendy.

Q. Is it your testimony that you haven't talked? A. I don't remember.

Q. Have you met with Tramunti outside of this building any day this week? A. I'd like to talk to my attorney.

Q. Go ahead. Take up the other questions too. A. I don't even remember the other questions. I got a piece of paper; if you let me write them, I'll write them.

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Q. I'll give them to you. A. When I walk out there, I'll tell you what happens—I don't remember.

Q. You don't remember? A. Not everything. I just remember the last one.

Q. All right, I'll give you three simple questions. I want to know the time of the day that you and Lucchese met. A. (Witness writes on paper) Time of day.

Q. Got it? I want to know whether you and Tramunti have met outside of this building any time this week. A. (Witness writes on paper.)

Q. I want to know who was present at the meetings that took place between you and Lucchese. A. (Witness writes on paper.) Thank you.

(Witness leaves room at 11:46 A.M., returns at 11:54 A.M.)

Q. Yes sir. A. Who was present with Tom Lucchese and the lawyers and the time of the day.

Q. That's right. A. I take the First, the Fifth and the Sixth Amendments.

Q. O.K., now, Mr. Pappadio,— A. I met with Carmine Tramunti—go ahead.

Q. I'm sorry; go ahead. A. That was the other question you gave me, so I'd like the answer it. I met with Carmine Tramunti after we left the building here. We met a couple of times while you were popping all this.

Q. Who else was with you when you met with Tramunti? A. Attorneys.

Q. Any of the other people who appeared before the Grand Jury in these proceedings? A. There was one there; Mr. Grio.

Q. Yes? A. Carmine Tramunti, the lawyers and myself